



**Los Angeles County
Office of Education**

Leading Educators ▪ Supporting Students ▪ Serving Communities

THE BROWN ACT GUIDE





**Los Angeles County
Office of Education**

Leading Educators • Supporting Students • Serving Communities

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Arturo Delgado, Ed.D., *superintendent*

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Los Angeles County Office of Education

Leading Educators ■ Supporting Students ■ Serving Communities

Arturo Delgado, Ed.D.
Superintendent

June 2012

**Los Angeles County
Board of Education**

Douglas R. Boyd
President

Dear Superintendents, College Presidents, and Board Members:

Rudell S. Freer
Vice President

The Los Angeles County Office of Education is pleased to present this year's edition of the Brown Act Guide. This version reflects the statutory changes that have taken place since our previous publication. The Brown Act matrix is a user-friendly reference guide for California administrators and educators. Because of the length of the Brown Act, sections unrelated to education have been omitted from the matrix. However, we replicate all California Government Code sections that make up the Brown Act in this guide for your convenience.

Katie Braude

Gabriella Holt

Maria Reza

Thomas A. Saenz

We hope the Brown Act Guide will continue to serve as a valuable reference tool.

Rebecca J. Turrentine

Sincerely,

A handwritten signature in black ink that reads "Arturo Delgado".

Arturo Delgado, Ed.D.
Superintendent

AR/VA:mt/aj

INTRODUCTION

The Brown Act is the body of law detailing how public affairs must be conducted by public commissions, boards, councils, and agencies. The intent of the Brown Act is that these public entities conduct their deliberations openly.

“The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” GC § 54950.

The provisions of the Brown Act require the attention of board members, superintendents, personnel commissions, committees, joint powers agency boards, and support staff.

PURPOSE OF THE BOOKLET

The matrix is not intended to replace careful analysis of the Brown Act’s provisions. It is a reference guide designed to supplement understanding of selected education-related code sections. All California Government Code sections encompassing the Brown Act have been included in this publication. Although code section headings have been provided for quick reference, they are not part of the official statutes. Additionally, although all code sections have been updated since our last edition, the provisions in this booklet should always be cross-referenced with current law, as statutes may be amended after publication of this guide.

While the Brown Act covers a variety of public entities, this handbook is designed primarily to assist school boards, superintendents, and administrators. The matrix divides education-related code sections among boards/board members, superintendents, and board secretaries. This format is used to demonstrate how the statutes may be applied practically; however, compliance with individual Brown Act provisions is not solely the duty of a board member, superintendent, or secretary. The public entity as a whole is responsible for adherence to the requirements of the Brown Act.

This publication provides a general overview of the Brown Act. It does not constitute legal advice and is not a substitute for legal counsel.

We welcome suggestions for future editions of the Brown Act Guide.

MATRIX ANALYSIS

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ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>“Local agency” Government Code (GC) § 54951</p>	<p>A county, city, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or other local public agency.</p>		
<p>“Legislative body” GC § 54952(b)</p>	<p>A commission, committee, board or other body of a local agency, whether permanent or temporary, advisory or decision-making, created by charter, ordinance, resolution, or formal action of a legislative body.</p> <p>This section applies to advisory committees composed solely of members of a legislative body that are less than a quorum of the legislative body if they have a continuing subject matter jurisdiction.</p>		<p>Agendas, meetings, and minutes must follow Brown Act requirements.</p>
<p>Conduct and treatment of electee GC § 54952.1</p>	<p>The Brown Act requirements apply upon election or appointment (i.e., before taking office).</p>	<p>Inform newly elected member of the legislative body of his/her Brown Act obligations.</p>	
<p>Multimember body with delegated authority as “legislative body” GC §§ 54952.2(a) – (b)</p> <p>(What constitutes a meeting subject to the Brown Act)</p>	<p>A congregation of a majority to hear, discuss, or deliberate upon matters within their jurisdiction. Also, includes <i>any</i> means (direct contact, teleconference, e-mail, fax, etc.) to develop a collective concurrence.</p> <p>Members must be vigilant regarding their communication practice with other members.</p>	<p>Consider practice and style of communications, especially informal weekly letters.</p> <p>Once the definition of a meeting is met, the entire Brown Act applies.</p>	

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Multimember body with delegated authority as “legislative body” GC § 54952.2(c)</p> <p>(What is not a meeting subject to the Brown Act)</p>	<p>The following are not meetings subject to the Brown Act (provided a majority of members do not discuss matters within the jurisdiction of the legislative body unless as part of a scheduled program/meeting):</p> <ul style="list-style-type: none"> • Conferences of general interest that are open to the public; • Open, publicized meetings addressing local concerns; • Individual contact/conversation between a member and any other person; • Purely social or ceremonial events; and • Open, noticed meetings of another local agency’s legislative body. 		<p>No posting requirement.</p>
<p>Simultaneous or serial meetings GC § 54952.3</p> <p>(Continued on next page)</p>	<p>A legislative body whose membership constitutes the quorum of another legislative body may also convene a meeting of the other body, simultaneously or in serial order.</p> <p>Prior to convening the simultaneous or serial meeting, a clerk or legislative body member must verbally announce the amount of compensation or stipend that each member will be entitled to receive as a result of the simultaneous or serial meeting and that the</p>		

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
(Simultaneous or serial meetings, continued) GC § 54952.3	compensation is provided as a result of convening the meeting, unless the amount is prescribed by statute and no additional or increased amount has been authorized by the legislative body.		
“Action taken” GC § 54952.6	A collective decision, promise, or commitment to make a decision, or actual vote by a majority of members of a legislative body.		Must be listed on the agenda as “recommendation” or “action.”
Copy of chapter GC § 54952.7	The legislative body may require a copy of the Brown Act be given to each member.		
Requirement that meetings be open and public; Teleconferencing GC § 54953(a) (Open meeting requirement)	All meetings must be made freely accessible to the public, except for closed sessions enumerated in GC § 54962 or permitted by the Brown Act itself in GC §§ 54956.7 – 54957. All votes taken during a teleconferenced meeting shall be by rollcall.		
Requirement that meetings be open and public; Teleconferencing GC § 54953(b) (Teleconferencing)	The legislative body may use teleconferencing (audio-video) to conduct a meeting, deliberate, and receive public comment and testimony. At least a quorum of members of the legislative body shall participate from within the territory over which the local agency exercises jurisdiction.	The teleconference must be conducted in a manner that protects participants and the public’s right of access.	Follow all posting and notice provisions. Posting must occur at all teleconference locations and list all teleconference locations.

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
Requirement that meetings be open and public; Teleconferencing GC § 54953(c) (No secret ballot)	The legislative body may not take action by secret ballot, whether preliminary or final.	No informal tallies. All votes taken shall be by roll call.	
Grand Jury testimony GC § 54953.1	The Brown Act does not prohibit members of a legislative body from giving testimony in private before a grand jury (either individually or as a whole).		
Meetings to conform with Americans with Disabilities Act (ADA) GC § 54953.2	All meetings of the legislative body that are open and public, including those held at teleconferencing sites, shall meet the protections and prohibitions contained in Section 202 of the ADA (42 U.S.C. § 12132) and implementing federal rules and regulations.	Section 202 of the ADA prohibits discrimination against disabled persons by public entities or exclusion of disabled persons from public services, activities, or programs.	
Registration of attendance GC § 54953.3	The public may not be required to register, provide information, or complete a questionnaire to attend a meeting.		
Recording proceedings GC § 54953.5	Anybody may photograph, video, or audio record a meeting absent a reasonable finding by the legislative body that the recording constitutes or would constitute a persistent disruption (e.g., noise, illumination, obstruction of view).	Draft policy on reasonable standards regarding noise, lights, etc.	Video or audio recordings done by or at the direction of the local agency must be available to the public for 30 days. The recordings may be erased after 30 days. Public review or inspection shall be provided free of charge.

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
Restrictions on broadcasts of proceedings GC § 54953.6	Broadcasts cannot be restricted or prohibited absent a reasonable finding by the legislative body that the recording constitutes or would constitute a persistent disruption (e.g., noise, illumination, obstruction of view).	Draft policy on reasonable standards regarding noise, lights, etc.	
Access to meetings beyond minimal standards GC § 54953.7	The legislative body may allow greater access to meetings than that provided by the minimal standards of the Brown Act.		
Rules for conduct of business; time and place of meetings GC § 54954 (Continued on next page)	<p>All meetings must begin in open session.</p> <p>Each legislative body, except for advisory committees or standing committees, shall provide the time and place for holding regular meetings.</p> <p>Meetings must take place within the territory over which the local agency exercises jurisdiction.</p> <p>A Joint Powers Agency (JPA) shall meet within the territory of one member agency. Statewide JPAs may meet in any facility within the state that complies with GC § 54961.</p> <p>The legislative body may meet outside its jurisdiction for:</p> <ul style="list-style-type: none"> • Compliance with a federal or state law; • Inspection of real or personal property that 	Meetings of advisory committees or standing committees, for which an agenda is posted 72 hours in advance pursuant to GC § 54954.2(a), shall be considered regular meetings and are subject to the provisions of the Brown Act.	<p>At least 72 hours before a regular meeting, an agenda must be posted in a location accessible 24 hours a day. The agenda shall specify the time and location of the meeting.</p> <p>Each agenda item, including those items to be discussed in closed session, must have a brief description (approximately 20 words or less).</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>(Rules for conduct of business; time and place of meetings, continued) GC § 54954</p>	<p>cannot be conveniently brought within the local agency's territory (the subject matter of the meeting must be directly related to the property);</p> <ul style="list-style-type: none">• Participation in a multi-agency meeting (the meeting must take place within the jurisdiction of one of the participating agencies and is subject to notice requirements for all participating agencies);• Lack of a facility (use closest possible);• Judicial or administrative proceedings to which the local agency is a party;• Meeting with federal or state officials to discuss legislative or regulatory matters where a local meeting is impractical;• Meeting in a facility owned by the local agency regarding that facility;• Meeting with legal counsel to discuss pending litigation where such a meeting reduces legal fees/costs;• Interviews for a new superintendent or a potential employee; or• Training in non-adversarial bargaining. <p>Emergency: If fire, flood, earthquake, or other emergency renders the designated meeting place unsafe, the meeting shall be held, for the duration of the emergency, at a location designated by the legislative body's presiding officer or his/her designee, with notice to local media by the fastest means available.</p>		

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
Request for notice; Renewal; Annual Fee GC § 54954.1	<p>The local agency must give mailed notice (agenda materials) to anyone who has filed a written request.</p> <p>The legislative body may establish a fee for mailing notice that cannot exceed the cost of providing the service.</p> <p>Failure of the requesting person's receipt of documents does not invalidate action taken by legislative body.</p>	Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.	<p>For regular and special meetings, a notice request is good for the calendar year in which it was filed and renewable after January 1.</p> <p>The agenda must be mailed upon posting or distribution to a majority of members (whichever occurs first). Documents must be available in alternate formats pursuant to the ADA.</p>
Posting of agenda GC § 54954.2(a)	<p>No action or discussion is permitted on any item not included on the posted agenda.</p> <p>Exceptions: Members of a legislative body may briefly respond to statements or questions posed by the public, ask questions for clarification, or make brief announcements (see GC § 54954.3). Members may also refer an item to staff to gather further information, address the item at a future meeting, or place an item on a future agenda.</p>	<p>Under the ADA, the agenda must contain procedural information for disabled persons to request accommodation to participate in the meeting. This includes auxiliary aids/services.</p> <p>Documents must be available in alternate formats.</p>	<p>At least 72 hours before a regular meeting, an agenda must be posted in a location accessible 24 hours a day. Additionally, an agenda must also be posted on the local agency's website, if the local agency has one. The agenda shall specify the time and location of the meeting.</p> <p>Each agenda item, including those items to be discussed in closed session, must have a brief description (approximately 20 words or less).</p>
Posting of agenda GC § 54954.2(b) (Continued on next page)	<p>Three situations where action is appropriate even though items do not appear on the posted agenda:</p> <ul style="list-style-type: none"> • A board majority determines an emergency exists under GC § 54956.5 (work stoppage or disaster); 		Forgetting to place an item on the agenda does not constitute an emergency.

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
(Posting of agenda, continued) GC § 54954.2(b)	<ul style="list-style-type: none"> • The board determines by 2/3 vote or, if less than 2/3 of members present, by unanimous vote of all those present that there is a need to act immediately that came to the attention of the local agency after agenda posting; or • Under certain conditions, items continued from prior meeting (prior meeting must have been no more than 5 calendar days before current meeting, and the item was continued to current meeting). <p>Note: Legislative body must publicly identify the item.</p>		
Public testimony at regular meetings GC § 54954.3	<p>If an item has already been considered in a board committee, composed solely of members of the legislative body, where the public had opportunity to be heard, it need not be open for public comment again unless it is determined that the item was substantially changed.</p> <p>No action may be taken and no discussion held on items raised by the public except as provided in GC § 54954.2(b).</p>	The legislative body may adopt reasonable regulations including, but not limited to, time allotment for each speaker and each subject. The regulations cannot restrict criticism of policies, programs, or services of the agency or acts or omissions of the legislative body.	The agenda must provide opportunity for the public to address the legislative body on matters within the body's jurisdiction.
Legislative findings and declarations relating to reimbursements; Legislative intent; Review of claims GC § 54954.4 (Continued on next page)		Mandated cost reimbursement by the state is permitted only for costs clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the statutes of 1986 (which requires	

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>(Legislative findings and declarations relating to reimbursements; Legislative intent; Review of claims, continued) GC § 54954.4</p>		<p>preparation and posting of agendas 72 hours prior to a public meeting).</p> <p>Reimbursement is limited to the actual cost to post a single agenda for any one meeting.</p> <p>In order to be reimbursed, there must be complete documentation of costs.</p>	
<p>Prohibition against closed sessions except as expressly authorized GC § 54962</p>	<p>No closed sessions may be held except as authorized by the Brown Act itself; or any provision of the Education Code pertaining to school or community college districts.</p>	<p>Every closed session must be specifically authorized by a relevant statute.</p>	
<p>Description of closed session items GC § 54954.5</p>	<p>All closed session agenda items must be posted 72 hours before meeting. See GC § 54954.5 for description requirements.</p>		<p>Include on the agenda the code section authorizing the closed session plus the description listed in the code.</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Description of closed session items GC § 54954.5(b) pursuant to GC § 54956.8</p> <p>(Conference with real property negotiators)</p>			<p>Property: Specify street address, parcel number, or other unique reference.</p> <p>Agency negotiator: Specify names of negotiators attending the closed session. If a specified negotiator is unable to attend, designee may participate as long as this is announced in open session prior to closed session.</p> <p>Negotiating parties: Specify name of party, not agent.</p> <p>Under negotiation: Specify whether instruction to negotiator will concern price, terms of payment, or both.</p>
<p>Description of closed session items GC § 54954.5(c) pursuant to GC § 54956.9(a)</p> <p>(Conference with legal counsel — existing litigation)</p>		<p>Legal counsel must be present in person or via teleconference.</p>	<p>Name of case: Specify by claimant's name, names of parties, case, or claim numbers.</p> <p>Case name unspecified: If disclosure would jeopardize service of process or existing settlement negotiations, indicate as such and leave unspecified.</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Description of closed session items GC § 54954.5(c) pursuant to GC §§ 54956.9(b) – (c)</p> <p>(Conference with legal counsel — anticipated litigation)</p>		<p>Legal counsel must be present in person or via teleconference.</p>	<p>Specify number of potential cases where there is a significant exposure to litigation or where litigation may be initiated.</p>
<p>Description of closed session items GC § 54954.5(d) pursuant to GC § 54956.95</p> <p>(Liability claims)</p>			<p>Claimant: Specify name, unless identification would harm victim or alleged victim of tortious sexual conduct or child abuse, unless the person’s identity has been publicly disclosed under GC § 54961.</p> <p>Agency claimed against: Identify by name.</p>
<p>Description of closed session items GC § 54954.5(e) pursuant to GC § 54957</p> <p>(Threat to public services or facilities)</p>			<p>Consultation: Identify law enforcement agency and title of officer or name of applicable agency representative and title.</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
Description of closed session items GC § 54954.5(e) pursuant to GC § 54957 (Public employee appointment, public employment)			Title: Specify description of position to be filled.
Description of closed session items GC § 54954.5(e) pursuant to GC § 54957 (Public employee performance evaluation)			Title: Specify position title of employee being reviewed.
Description of closed session items GC § 54954.5(e) pursuant to GC § 54957 (Public employee discipline/dismissal/release)			No additional information is required. Note: employee discipline includes potential reduction of compensation.
Description of closed session items GC § 54954.5(f) pursuant to GC § 54957.6 (Conference with labor negotiators) (Continued on next page)			Agency designated representatives: Provide names of representatives attending the closed session. If a representative is unable to attend, a designee may participate provided name is announced in open session prior to closed session. Employee organization: Identify by

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Description of closed session items (continued) GC § 54954.5(f) pursuant to GC § 54957.6</p> <p>(Conference with labor negotiators)</p>			<p>name.</p> <p>Unrepresented employee: Specify position title.</p>
<p>Description of closed session items GC § 54954.5(i) pursuant to GC § 54956.86</p> <p>(Charge or complaint involving information protected by federal law)</p>	<p>Prior to the hearing, the legislative body shall give the member written notice of right to have the complaint heard in open rather than closed session.</p>		<p>No additional information is required to discuss a charge or complaint from a member of the local agency's health plan if the member does not wish to have name, medical status, or other information protected by federal law publicly disclosed.</p>
<p>Description of closed session items GC § 54954.5(j) pursuant to GC § 54956.96</p> <p>(Conference involving a Joint Powers Agency [JPA])</p>			<p>Identify the JPA by name.</p> <p>Discussion will concern: Describe subject matter using the JPA's closed session description.</p> <p>Provide the name of the JPA board's local agency representative.</p> <p>Specify the names of agencies or titles of representatives attending as consultants or other representatives.</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Description of closed session items GC § 54954.5(k) pursuant to GC § 54956.75</p> <p>(Audit by Bureau of State Audits)</p>	<p>The legislative body of a local agency that has received a confidential final draft audit report from the Bureau of State Audits may hold a closed session to discuss its response to the report.</p> <p>After the public release of an audit report, discussions of that report must occur in open session (absent some other provision of law authorizing closed session).</p>		
<p>Pupil hearings; closed session</p>	<p>The California Education Code, not the Brown Act, controls the conduct of closed session hearings for pupil discipline and expulsion. See Education Code §§ 35146 and 48918.</p>		
<p>Public meeting on general tax or assessment; Notice GC § 54954.6</p> <p>(Continued on next page)</p>	<p>Before adopting a new or increased tax or assessment, the legislative body must conduct at least one public <i>meeting</i> to gather public testimony on the proposal.</p> <p>Under this section, taxes and assessments do not include the following:</p> <ul style="list-style-type: none"> • Fees not exceeding the reasonable cost of providing services, facilities, or regulatory activities for which the fee is charged; • A service charge or rate unless required by a special district's principal act for conformity with this code section; • An ongoing annual assessment less than or equal to that of any previous year; 	<p>Public <i>meeting</i> must occur prior to the public <i>hearing</i> at which the legislative body proposes to enact the new or increased tax or assessment.</p> <p>Public <i>meeting</i> may occur no sooner than 10 days after initial publication of notice.</p> <p><i>Hearing</i> may occur no sooner than 7 days after the <i>meeting</i>.</p> <p>A consolidated meeting or hearing may be held for multiple</p>	<p>Public notice requirements:</p> <ul style="list-style-type: none"> • Notice of the meeting and hearing must be in the same document; • Must be advertised at least 45 days before <i>hearing</i> for three weeks in a newspaper of general circulation; • Ad must be at least 1/8 of a page; • Must be mailed first class to those who have filed a notice request; • Filed request is good for one year, renewed on or before April 1; and • Newspaper notices must include: <ul style="list-style-type: none"> ○ Tax amount or rate (if increase, including existing and proposed rate);

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>(Public meeting on general tax or assessment; Notice, continued) GC § 54954.6</p>	<ul style="list-style-type: none"> • An assessment which does not exceed a formula for a range of services previously specified in notice; • Standby or immediate availability charges; and • Taxes or assessments requiring an election of either property owners subject to the assessment or voters within the local agency imposing the tax or assessment. 	<p>proposals.</p> <p>Local agency may recoup the reasonable costs of meetings, hearings, and notice from the tax or assessment proceeds.</p> <p>New or increased assessments subject to notice and hearing provisions of Article XIIC or XIID of the California Constitution are not subject to this section.</p>	<ul style="list-style-type: none"> ○ Activity to be taxed; ○ Estimated annual amount to be raised by the tax; ○ Method and frequency of tax collection; ○ Dates, times, locations of hearings and meetings; and ○ Address and phone number of an information contact. <ul style="list-style-type: none"> • If an assessment is levied on a business, the public notice must indicate the method and basis of levying the assessment in sufficient detail to allow the business owner to calculate the amount of the assessment to be levied. <p>See GC § 54954.6 for notice requirements for affected landowners.</p>
<p>Adjournment of meetings GC § 54955</p>	<p>The legislative body may adjourn a meeting to a specified day, time, and location. The adjourned meeting will resume as a regular meeting.</p>	<p>If there is failure to announce or post notice of adjournment, the meeting must occur at the next regularly scheduled time.</p>	<p>Post notice of adjournment on or near the door of the location where the adjourned meeting was held within 24 hours of adjournment.</p> <p>If all members absent, secretary may adjourn to a stated time and location. Follow notice procedures in GC § 54956 (see below).</p>
<p>Continuance of hearing GC § 54955.1</p>	<p>The legislative body may continue a meeting or hearing using the adjournment procedure (see above).</p>		<p>If continuance is to be held within 24 hours of the continued meeting, post notice immediately.</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Special meetings; Notice GC § 54956</p>	<p>Special meetings may be called by the presiding officer or a majority of members of the legislative body.</p> <p>The legislative body may only consider the matters included on the special meeting notice.</p> <p>The legislative body shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, unless the purpose of the special meeting is to discuss the local agency's budget.</p>	<p>No items may be added.</p>	<p>Written notice must be delivered to each member and each local newspaper and media outlet requesting notice. Notice must be received at least 24 hours before meeting, either personally or by any other means (e-mail, phone, fax, etc.). Additionally, notice must also be posted on the local agency's website, if the local agency has one.</p> <p>Notice must indicate the time, place, and nature of business, and be posted in a public, conspicuous place.</p>
<p>Emergency meetings; Notice GC § 54956.5</p>	<p>An "emergency situation" exists if any of the following occurs:</p> <ul style="list-style-type: none"> • Work stoppage, crippling activity, or other activity which impairs health, safety, or both; or • Crippling disaster, mass destruction, terrorist act, or threatened terrorist activity posing immediate and significant peril such that requiring one-hour notice may endanger public health and/or safety (as determined by a majority of the legislative body). <p>No closed session except as provided under GC § 54957 (see below).</p>	<p>Closed session regarding threats to public security may be held under GC § 54957 if agreed to by 2/3 vote or, if less than 2/3 of the members are present, unanimous vote.</p>	<p>24-hour notice and posting requirements are waived.</p> <p>If newspaper or media have filed a request, presiding officer shall notify such outlets by phone a minimum of 1 hour before meeting. If phones are out, this requirement is waived.</p> <p>If unable to notify media by phone before meeting, give notice of the meeting, its purpose, and any action taken as soon as possible after the meeting.</p> <p>Minutes, list of people notified or attempted to notify, roll call vote, and action taken shall be posted for 10 days in a public place.</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
Fees GC § 54956.6	Legislative body may not charge fees for carrying out provisions of this Act, except where specifically authorized by this Act.		
Closed sessions regarding real property negotiations GC § 54956.8	<p>Prior to closed session, identify negotiators, property, and the person(s) with whom the negotiator may negotiate in open session.</p> <p>The legislative body may meet in closed session with a negotiator prior to the purchase, sale, exchange, or lease (or lease renewal) of property to give instructions regarding price and terms. Closed session is also permitted for discussions regarding eminent domain proceedings.</p>		<p>Property: Specify street address, parcel number, or other unique reference.</p> <p>Agency negotiator: Specify names of negotiators attending the closed session. If a specified negotiator is unable to attend, a designee may participate as long as this is announced in open session prior to closed session.</p> <p>Negotiating parties: Specify name of party, not agent.</p> <p>Under negotiation: Specify whether instruction to negotiator will concern price, terms of payment, or both.</p>
Closed sessions regarding purchase or sale of pension fund investments GC § 54956.81	A legislative body of a local agency that invests pension funds may meet in closed session to consider the purchase or sale of specific pension fund investments. All transactions must be made by roll call vote and recorded into the minutes of the closed session.		

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Closed sessions concerning pending litigation; Attorney-client privilege GC § 54956.9</p>	<p>Two criteria must be met:</p> <ol style="list-style-type: none"> 1. Conferring with legal counsel and 2. Discussion in open session would prejudice the district's position. <p>Limits the attorney-client privilege in closed session exclusively to situations enumerated in this section.</p> <p>Litigation means any adjudicatory proceedings before a court, administrative body, hearing officer, or arbitrator.</p>	<p>Litigation is considered pending when:</p> <ol style="list-style-type: none"> 1. The local agency is a party to formally initiated litigation; 2. Based on legal counsel's advice to the legislative body, there is a significant exposure to litigation arising from existing facts and circumstances; 3. The legislative body meets solely to consider whether a closed session is required pursuant to # 2 above; or 4. Based on existing facts and circumstances, the legislative body has decided to initiate or is deciding whether to initiate litigation. 	<p>Prior to the closed session, the legislative body shall state on the agenda or publicly announce the subdivision of this section which authorizes the closed session.</p> <p>If the session is closed to discuss formally initiated litigation to which the local agency is a party, the legislative body shall state the title or otherwise identify the litigation unless it would jeopardize service of process or existing settlement negotiations.</p> <p>Name of case: Specify by claimant's name, names of parties, case, or claim numbers.</p> <p>Case name unspecified: If disclosure would jeopardize service of process or existing settlement negotiations, indicate as such and leave unspecified.</p> <p>Specify number of potential cases where there is a significant exposure to litigation.</p> <p>Specify number of potential cases where litigation may be initiated.</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Closed sessions concerning pending litigation; Attorney-client privilege GC § 54956.9(b)</p> <p>(Definition of “existing facts and circumstances” which create a significant exposure to litigation)</p>	<p>“Existing facts and circumstances” creating a significant exposure to litigation include the following:</p> <ul style="list-style-type: none">• Those which might result in litigation, but are unknown to potential plaintiff(s) and need not be disclosed;• Accident, disaster, incident, or transaction which might result in litigation. These must be publicly stated on the agenda or announced;• Receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff. The claim/communication shall be available for public inspection pursuant to GC § 54957.5;• Statement made in open, public meeting threatening litigation on a specific matter within the legislative body’s responsibility;• Statement made outside an open session to an official or employee of the local agency threatening litigation. Official/employee must record the statement before closed session. Statement must be available to public pursuant to GC § 54957.5 unless it identifies the victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identifies a public employee who is the alleged perpetrator of any unlawful or tortious conduct (unless the employee’s identity has already been publicly disclosed).		

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
Closed session regarding liability GC § 54956.95	JPAs, local agency members of JPAs, and Local Agency Self-Insurance Authorities may meet in closed session to discuss claims for payment of: <ul style="list-style-type: none"> • Tort liability losses; • Public liability losses; or • Workers' compensation losses. 		
Disclosure of specified information in closed session of joint powers agency; Authorization of designated alternate to attend closed session; Closed session of legislative body of local agency member GC § 54956.96 (JPA Policies)	A JPA may adopt policies that authorize either or both of the following: <ul style="list-style-type: none"> • All information received in a JPA's closed session by the legislative body of a JPA's member agency shall remain confidential. <ul style="list-style-type: none"> ○ Exception: A member of the legislative body of a JPA's member agency may disclose information having direct financial or liability implications on that member agency to the agency's legal counsel or other members present in closed session. • Alternate members of a JPA's legislative body may attend closed session in lieu of the regularly appointed member. <p>If a JPA adopts a policy pursuant to this section, the legislative body of one of the JPA's member agencies may, upon the advice of its legal counsel, meet in closed session to discuss or take action on information obtained in the JPA's closed session.</p>		

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Closed session regarding public security, facilities, employees, national security, examination of witness; GC § 54957</p> <p>(Security)</p>	<p>A legislative body may meet in closed session to discuss:</p> <ul style="list-style-type: none"> • Threats to security of public buildings; • Threats to security of essential public services; or • Threats to the public’s right to access public services or facilities. 	<p>A legislative body may meet in closed session with the Attorney General, district attorney, agency counsel, sheriff and/or chief of police (or their deputies), or security consultants/managers.</p>	<p>Consultation: Identify law enforcement agency and title of officer or name of applicable agency representative and title.</p>
<p>Closed session regarding employees GC § 54957</p> <p>(Complaints or charges against employees)</p>	<p>Closed session is permitted to consider appointment, employment, performance evaluation, discipline, or dismissal of a public employee (may not apply to County Boards of Education).</p> <p>Elected officials, members of a legislative body, and independent contractors are not covered by this section.</p> <p>Compensation may not be discussed in closed session except for potential reduction due to discipline.</p>	<p>A public employee shall be given 24-hour written notice of complaints or charges brought by another person or employee.</p> <p>The employee must be given 24-hour written notice of right to hear charges in open rather than closed session.</p> <p>If notice procedures are not followed, action taken by the legislative body against the employee based on the charges or complaints is null and void.</p>	<p>Title: Specify description of position to be filled.</p> <p>Title: Specify position title of employee being reviewed.</p> <p>No additional information is required.</p> <p>Note: employee discipline includes potential reduction of compensation.</p> <p>Report appointment, employment, dismissal, resignation, or other change in employment status. Indicate the title of the employee’s position.</p>
<p>Public report of action taken in closed session GC § 54957.1</p>	<p>The legislative body must report any action taken in closed session and the vote or abstention of members present.</p>		

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Public report of action taken in closed session GC § 54957.1(a)(1) pursuant to GC § 54956.8</p> <p>(Real estate agreements)</p>	<p>Report real estate agreements when final:</p> <ul style="list-style-type: none"> • If the board’s own approval renders an agreement final, report substance of the agreement in open session. • If final approval rests with the other party to the agreement, announce the legislative body’s approval, but wait to report on substance until the other party’s approval. 		
<p>Public report of action taken in closed session GC § 54957.1(a)(2) – (3) pursuant to GC § 54956.9</p> <p>(Litigation)</p>	<p>Announce in open session approval given to legal counsel to defend, seek, or forego appellate review/relief, or enter as amicus curiae in litigation based on consultation under GC § 54956.9. Identify adverse parties, if known, and substance of litigation.</p> <p>If approval is given to initiate or intervene in an action, announce such approval but withhold the identity of the action and parties until formal commencement and inquiry by any person (however, if identification would jeopardize service of process or settlement negotiations, continue to withhold the information).</p>	<p>After settlements are reached, report the substance of the settlement along with:</p> <ul style="list-style-type: none"> • The legislative body’s acceptance of a settlement offer signed by the opposing party; or • Where final approval of a settlement offer rests with the court or an opposing party, report such approval upon final settlement <i>and</i> inquiry by any person. 	
<p>Public report of action taken in closed session GC § 54957.1(a)(4) pursuant to GC § 54956.95</p> <p>(Workers’ compensation)</p>	<p>Identify the claimant, agency claimed against, substance of the claim, and monetary amount approved for payment and agreed upon by claimant.</p>		

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Public report of action taken in closed session GC § 54957.1(a)(5) pursuant to GC § 54957</p> <p>(Status of public employment/employee)</p>	<p>Report appointment, employment, dismissal, resignation, or other change in employment status. Indicate the title of the employee's position.</p>		
<p>Public report of action taken in closed session GC § 54957.1(a)(6) pursuant to GC § 54957.6</p> <p>(Labor negotiations)</p>	<p>Report after agreement is final and ratified or accepted. Identify item approved and parties involved.</p>		
<p>Public report of action taken in closed session GC § 54957.1(b)</p> <p>(Oral/written reports)</p>	<p>Reports required under GC § 54957.1 may be oral or in writing.</p> <p>Copies of documents finally approved or adopted in closed session shall be provided to those who have made a standing request or those who make a written request within 24 hours of agenda posting.</p> <p>Standing requests for agendas, minutes, and documents include notification and report of action taken in closed session.</p>		<p>If typing or retyping of documents is required due to an amendment, the presiding officer of the legislative body must orally summarize the substance of action taken.</p> <p>If documents require typing or retyping, they can be provided during normal business hours on the next business day or, if substantial, when complete.</p>
<p>Minute Book for closed session GC § 54957.2</p>	<p>The legislative body may designate a clerk, officer, or employee to attend closed session and keep a minute book. The minute book is not a public record, and shall be confidential. The minute book shall be available only to legislative body members.</p>	<p>An elected legislative body may require a legislative body all or a majority of whose members are appointed under the elected body's authority to keep a minute book.</p>	<p>Record date, topics discussed, and action taken in closed session.</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Agendas and other writings as public records GC § 54957.5</p>	<p>Public meeting agendas and any other documents distributed to all or a majority of members of a legislative body in connection with the subject matter of meeting discussions are disclosable public records.</p> <p>The legislative body may charge a fee or deposit for copies of documents (but no surcharge for persons with disabilities).</p>		<p>Documents shall be available for public inspection upon request.</p> <p>If a document is a public record and relates to an agenda item for an open session of a regular board meeting, and is distributed <i>less than 72</i> hours prior to that meeting, the document shall:</p> <ul style="list-style-type: none"> (a) be made available for public inspection at a public office or location that the agency designates for that purpose; (b) the agency shall list this address on the agendas; and (c) the agency may also post the document on its web site. <p>Documents must be available in alternate formats pursuant to the ADA.</p>
<p>Closed sessions regarding employee matters GC § 54957.6</p> <p>(Continued on next page)</p>	<p>The legislative body may meet in closed session in order to:</p> <ul style="list-style-type: none"> • Instruct the local agency’s designated representative on salaries, salary schedules, or compensation paid in the form of fringe benefits (this applies to both represented and unrepresented employees); • Discuss matters within the statutorily provided scope of a represented employee’s representation; or 	<p>For County Offices of Education, the Superintendent of Schools is deemed the employer; therefore, closed session provisions regarding personnel matters may not be applicable to County Boards of Education.</p>	<p>Prior to closed session, the legislative body shall identify designated representatives in open session.</p> <p>Under this section, “employee” applies to officers and independent contractors functioning as officers or employees, but not to elected officials, members of a legislative body, or other independent contractors.</p>

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
(Closed sessions regarding employee matters, continued) GC § 54957.6	<ul style="list-style-type: none"> Meet with a state conciliator who has intervened in a proceeding. <p>Closed session under this section shall not include final action on proposed compensation for unrepresented employees.</p> <p>The legislative body shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, unless the purpose of the special meeting is to discuss the local agency's budget.</p>		
Disclosure of items to be discussed at closed session GC § 54957.7	<p>Announce in open session the reason for closed session, disclose items to be discussed in closed session, or reference the item as lettered or numbered on the agenda.</p> <p>Only consider items listed on the agenda.</p> <p>After closed session, reconvene in open session and publicly report actions taken in closed session pursuant to GC § 54957.1.</p>		
Authorization to clear a room where meeting willfully interrupted; Readmission GC § 54957.9	In the event of disruption, and order cannot be restored by removing disruptive individuals, the legislative body may order the meeting room cleared and continue the session. Press are allowed to stay unless they participated in the disturbance.	The legislative body may draft procedures for readmitting persons not involved in the disruption.	Only matters appearing on the agenda may be discussed after disruption.

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
Closed sessions regarding application for early withdrawal of deferred compensation plan funds GC § 54957.10	The legislative body may hold closed sessions to discuss an employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency.		
Application of chapter GC § 54958	The provisions of the Brown Act apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.		
Criminal penalty for violation of chapter GC § 54959	Each member of a legislative body is guilty of a misdemeanor where he/she attends a meeting where action is taken in violation of the Brown Act with intent to deprive the public of information to which the member knows or should know the public is entitled.		
Proceeding to prevent violation of chapter; Recording closed sessions; Procedure for discovery of tapes GC § 54960 (Civil remedies for Brown Act violation)	The district attorney or any interested person may commence an action by mandamus, injunction, or declaratory relief to: <ul style="list-style-type: none"> • Determine applicability of the Brown Act to an action or proposed action; • Prevent violation of the Brown Act; • Determine the validity of a legislative body's rule or action penalizing or discouraging the expression of its members; and/or • Compel tape recording of closed session using specified procedures (see GC § 54960(c)). 		

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Proceeding to determine validity of action; Demand for correction GC § 54960.1</p>	<p>The district attorney or any interested person may commence an action to determine the legality of action taken. Action taken in violation of GC §§ 54953, 54854.2, 54954.5, 54954.6, 54956, or 54956.5, is null and void. See GC § 54960.1(d) for exceptions. The legislative body may have up to 30 days to cure or correct action.</p> <p>The demand to cure must be sent to the legislative body within 90 days of the alleged violation, or 30 days if the action was taken in open session but in violation of GC § 54954.1.</p>		
<p>Costs and attorney fees GC § 54960.5</p>	<p>Costs and attorney fees may be awarded to the plaintiff in an action brought pursuant to GC § 54960 where a local agency is found to have violated the Brown Act.</p> <p>Costs and fees may be awarded to the defendant if an action is clearly frivolous and totally lacking in merit.</p>	<p>Costs and fees shall be paid by the local agency and shall not become a personal liability of officers or employees.</p>	
<p>Meeting place with discriminatory admission policies GC § 54961(a)</p>	<p>The legislative body must meet in a facility that does not discriminate based on ancestry or any characteristic listed or defined within GC § 11135, or which is inaccessible to disabled persons.</p>	<p>Admission fees may not be charged.</p>	
<p>Identification of victim of sexual or child abuse GC § 54961(b)</p>	<p>No notice, agenda, announcement, or report need identify the victim or alleged victim of tortious sexual conduct or child abuse.</p>		

ELEMENT	BOARD OR BOARD MEMBER	SUPERINTENDENT	BOARD SECRETARY/STAFF
<p>Disclosure of confidential information acquired in closed session prohibited; Disciplinary action for violation GC § 54963</p>	<p>A person may not disclose confidential information obtained in closed session unless authorized by the legislative body.</p> <p>Confidential information is any communication made in closed session relating to the basis for holding the closed session.</p> <p>Non-violations under this section:</p> <ul style="list-style-type: none"> • Confidential inquiries or complaints to a district attorney or grand jury regarding a legislative body’s potential illegal action; • Expressions of opinion disclosing the nature and extent of a legislative body’s potential illegal action; • Disclosure of non-confidential information; and • Disclosure under whistleblower statutes. 	<p>Remedies for violation of this section:</p> <ul style="list-style-type: none"> • Injunctive relief to prevent disclosure; • Disciplinary action for willful disclosure (but only if the employee in violation had notice of this section); and/or • Referral of a member of a legislative body to the grand jury. 	

GOVERNMENT CODE SECTIONS 54950-54963
THE RALPH M. BROWN ACT

THE RALPH M. BROWN ACT

§ 54950. Declaration of public policy

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

§ 54950.5. Title of act

This chapter shall be known as the Ralph M. Brown Act.

§ 54951. "Local agency"

As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

§ 54952. "Legislative body"

As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c)

(1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

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(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of *Section 32121 of the Health and Safety Code* after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

§ 54952.1. Conduct and treatment of electee

Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

§ 54952.2. Specified communications of legislative body of local agency prohibited outside meeting thereof

(a) As used in this chapter, "meeting" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

(b)

(1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

(2) Paragraph (1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) Nothing in this section 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 that do not violate subdivision (b).
- (2) The attendance of a majority of the 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, other than as part of the scheduled program, business of a specified 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, other than as part of the scheduled program, 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 of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, 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 legislative body of the local agency.
- (5) The attendance of a majority of the members of a legislative 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 legislative body of the local agency.
- (6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

§ 54952.3. Simultaneous or serial order meetings authorized; Requirements; Compensation or stipend

(a) A legislative body that has convened a meeting and whose membership constitutes a quorum of any other legislative body may convene a meeting of that other legislative body, simultaneously or in serial order, only if a clerk or a member of the convened legislative body verbally announces, prior to convening any simultaneous or serial order meeting of that subsequent legislative body, the amount of compensation or stipend, if any, that each member will be entitled to receive as a result of convening the simultaneous or serial meeting of the subsequent legislative body and identifies that the compensation or stipend shall be provided as a result of convening a meeting for which each member is entitled to collect compensation or a stipend. However, the clerk or member of the legislative body shall not be required to announce the amount of compensation if the amount of compensation is prescribed in statute and no additional compensation has been authorized by a

local agency.

(b) For purposes of this section, compensation and stipend shall not include amounts reimbursed for actual and necessary expenses incurred by a member in the performance of the member's official duties, including, but not limited to, reimbursement of expenses relating to travel, meals, and lodging.

§ 54952.6. "Action taken"

As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

§ 54952.7. Copy of chapter

A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

§ 54953. Requirement that meetings be open and public; Teleconferencing; Teleconference meetings by health authority

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b)

(1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall par-

ticipate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.

§ 54953.1. Grand jury testimony

The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

§ 54953.2. Meetings to conform to Americans With Disabilities Act

All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (*42 U.S.C. Sec. 12132*), and the federal rules and regulations adopted in implementation thereof.

§ 54953.3. Registration of attendance

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

§ 54953.5. Recording proceedings

(a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the

California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.

§ 54953.6. Restrictions on broadcasts of proceedings

No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

§ 54953.7. Access to meetings beyond minimal standards

Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

§ 54954. Rules for conduct of business; Time and place of meetings

(a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

- (1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.
- (2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.
- (3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.
- (4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises juris-

diction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district, except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of an applicant for the position of the superintendent of the district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

§ 54954.1. Request for notice; Renewal; Annual Fee

Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (*42 U.S.C. Sec. 12132*), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute

grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

§ 54954.2. Posting of agenda; Actions not on agenda

(a)

(1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (*42 U.S.C. Sec. 12132*), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is

taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of *Section 3 of Article I of the California Constitution*.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

§ 54954.3. Public testimony at regular meetings

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

§ 54954.4. Legislative findings and declarations relating to reimbursements; Legislative intent; Review of claims

(a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and une-

quivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with *Section 54950*) of *Part 1 of Division 2 of Title 5 of the Government Code*) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

§ 54954.5. Description of closed session items

For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

(Subdivision (a) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to *Sections 1461, 32106, and 32155 of the Health and Safety Code* or *Sections 37606 and 37624.3 of the Government Code*:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)
(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

AUDIT BY BUREAU OF STATE AUDITS

§ 54954.6. Public meeting on general tax or assessment; Notice

(a)

(1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b)

(1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with

the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

- (A)** The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.
- (B)** The activity to be taxed.
- (C)** The estimated amount of revenue to be raised by the tax annually.
- (D)** The method and frequency for collecting the tax.
- (E)** The dates, times, and locations of the public meeting and hearing described in subdivision (a).
- (F)** The telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c)

(1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property or businesses shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners or business owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll, the State Board of Equalization assessment roll, or the local agency's records pertaining to business ownership, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

- (A)** In the case of an assessment proposed to be levied on property, the estimated amount of the assessment per parcel. In the case of an assessment proposed to be levied on businesses, the proposed method and basis of levying the as-

assessment in sufficient detail to allow each business owner to calculate the amount of assessment to be levied against each business. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

- (B) A general description of the purpose or improvements that the assessment will fund.
- (C) The address to which property owners may mail a protest against the assessment.
- (D) The telephone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.
- (E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.
- (F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).
- (G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with *Section 22500*) of *Division 2 of the Streets and Highways Code* by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with *Section 5500*) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with *Section 35100*) of, the *Public Resources Code*, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

- (1) The property owners subject to the assessment.
- (2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

§ 54955. Adjournment of meetings

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

§ 54955.1. Continuance of hearing

Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

§ 54956. Special meetings; Notice

(a) A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency's Internet Web site, if the local agency has one. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall

specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

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.

(b) Notwithstanding any other law, a legislative body shall not call a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined in subdivision (d) of Section 3511.1. However, this subdivision does not apply to a local agency calling a special meeting to discuss the local agency's budget.

(c) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

- (1)** A legislative body as that term is defined by subdivision (a) of Section 54952.
- (2)** A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

§ 54956.5. Emergency meetings; Notice

- (a)** For purposes of this section, "emergency situation" means both of the following:
- (1)** An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.
 - (2)** A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.
- (b)**
- (1)** Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.
 - (2)** Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notifi-

cation of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

§ 54956.6. Fees

No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

§ 54956.7. Closed sessions regarding application from person with criminal record

Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

§ 54956.75. Closed session for response to final draft audit report

(a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a legislative body of a local agency meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

§ 54956.8. Closed sessions regarding real property negotiations

Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

§ 54956.81. Closed sessions regarding purchase or sale of pension fund investments

Notwithstanding any other provision of this chapter, a legislative body of a local agency that invests pension funds may hold a closed session to consider the purchase or sale of particular, specific pension fund investments. All investment transaction decisions made during the closed session shall be made by rollcall vote entered into the minutes of the closed session as provided in subdivision (a) of Section 54957.2.

§ 54956.86. Closed session for health plan member

Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to *Section 14087.3 of the Welfare and Institutions Code* may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

§ 54956.87. Disclosure of records and information; Meetings in closed session

(a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340*) of *Division 2 of the Health and Safety Code*) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulas or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with *Section 1340*) of *Division 2 of the Health and Safety Code*) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (f), shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) Notwithstanding any other provision of law, the governing board of a health plan may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations by the health plan with providers of health care services concerning all matters related to rates of payment. The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with *Section 1340*) of *Chapter 2.2 of Division 2 of the Health and Safety Code*.

(f) For purposes of this section, "health plan trade secret" means a trade secret, as defined in subdivision (d) of *Section 3426.1 of the Civil Code*, that also meets both of the following criteria:

- (1) The secrecy of the information is necessary for the health plan to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product.
- (2) Premature disclosure of the trade secret would create a substantial probability of depriving the health plan of a substantial economic benefit or opportunity.

§ 54956.9. Closed sessions concerning pending litigation; Lawyer-client privilege

Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

- (a)** Litigation, to which the local agency is a party, has been initiated formally.
- (b)**
 - (1)** A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.
 - (2)** Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.
 - (3)** For purposes of paragraphs (1) and (2), "existing facts and circumstances" shall consist only of one of the following:
 - (A)** Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.
 - (B)** Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.
 - (C)** The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.
 - (D)** A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.
 - (E)** A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone

making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

§ 54956.95. Closed sessions regarding liability

(a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

§ 54956.96. Disclosure of specified information in closed session of joint powers agency; Authorization of designated alternate to attend closed session; Closed session of legislative body of local agency member

(a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5

of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

- (1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a member local agency may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:
 - (A) Legal counsel of that member local agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that member local agency.
 - (B) Other members of the legislative body of the local agency present in a closed session of that member local agency.
- (2) Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.
 - (b) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a).

§ 54957. Closed session regarding public security, facilities, employees, national security, examination of witness

- (a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.
 - (b)
 - (1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session
 - (2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the

employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this subdivision shall limit local officials' ability to hold closed session meetings pursuant to *Sections 1461, 32106, and 32155 of the Health and Safety Code* or *Sections 37606 and 37624.3 of the Government Code*. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

§ 54957.1. Public report of action taken in closed session; Form; Availability; Actions for injury to interests

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as follows:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

- (3)** Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:
- (A)** If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.
 - (B)** If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.
- (4)** Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.
- (5)** Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.
- (6)** Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.
- (7)** Pension fund investment transaction decisions made pursuant to Section 54956.81 shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.
- (b)** Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.
- (c)** The documentation referred to in subdivision (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

(f) This section is necessary to implement, and reasonably within the scope of, paragraph (1) of subdivision (b) of *Section 3 of Article I of the California Constitution*.

§ 54957.2. Minute book for closed sessions

(a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

§ 54957.5. Agendas and other writings as public records

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

(b)

(1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's Internet Web site in a position and

manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(3) This subdivision shall become operative on July 1, 2008.

(c) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (*42 U.S.C. Sec. 12132*), and the federal rules and regulations adopted in implementation thereof.

(d) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (*42 U.S.C. Sec. 12132*), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

§ 54957.6. Closed sessions regarding employee matters

(a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

§ 54957.7. Disclosure of items to be discussed at closed session

(a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

§ 54957.8. Closed sessions of multijurisdictional drug law enforcement agencies

(a) For purposes of this section, "multijurisdictional law enforcement agency" means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that provides law enforcement services for the parties to the joint powers agreement for the purpose of investigating criminal activity involving drugs; gangs; sex crimes; firearms trafficking or felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft.

(b) Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional law enforcement agency, or an advisory body of a multijurisdictional law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

§ 54957.9. Authorization to clear room where meeting willfully interrupted; Readmission

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmit-

ting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

§ 54957.10. Closed sessions regarding application for early withdrawal of deferred compensation plan funds

Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan.

§ 54958. Application of chapter

The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

§ 54959. Criminal penalty for violation of chapter

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

§ 54960. Proceeding to prevent violation of chapter; Recording closed sessions; Procedure for discovery of tapes

(a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c)

(1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959,

54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session which has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency which has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of *Section 1005 of the Code of Civil Procedure*.

(B) The notice shall include, in addition to the items required by *Section 1010 of the Code of Civil Procedure*, all of the following:

- (i)** Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency which has custody and control of the recording.
- (ii)** An affidavit which contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications which are protected by the attorney-client privilege.

§ 54960.1. Proceeding to determine validity of action; Demand for correction

(a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 5 4956.5. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c)

(1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, 54956, and 54956.5.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

§ 54960.5. Costs and attorney fees

A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a legislative body of the local agency has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

§ 54961. Meeting place with discriminatory admission policies; Identification of victim of sexual or child abuse

(a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

§ 54962. Prohibition against closed sessions except as expressly authorized

Except as expressly authorized by this chapter, or by *Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code*, or by *Sections 37606, 37606.1, and 37624.3 of the Government Code* as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

§ 54963. Disclosure of confidential information acquired in closed session prohibited; Disciplinary action for violation

(a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, "confidential information" means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grand jury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in *Section 1102.5 of the Labor Code* or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.