**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

March 23, 1993

To: Board of Directors (Legal and Claims Committee--Information)
 (Special Comm. on Legislation--Information)
 From: Assistant General Counsel
 Subject: Ralph M. Brown Act Legislation--Senate Bill 36 (Kopp)

Report

Last year, Senator Quentin Kopp (SB 1538) and Assembly Member John Burton (AB 3476) introduced bills making major amendments to the Ralph M. Brown Act, the local government public meeting law. Both bills were passed by the legislature. Governor Wilson, however, vetoed the bills, citing their cost in a time of fiscal crisis.

On December 7, 1992, Senator Kopp introduced Senate Bill 36, a bill very similar to those the governor vetoed.

The major changes SB 36 would make to the Brown Act, and which are identical or nearly identical to Kopp's SB 1538 of 1992, include the following:

- It applies the Brown Act to nonprofit corporations formed to build public works projects and to bodies such as boards and commissions delegated material authority by a local agency.

- It deletes the provisions currently in the Brown Act exempting meetings of board standing committees from the act's open meeting requirements if the committees are made up solely of less than a quorum of the board members, but only as to those standing committees which hold regularly scheduled meetings. Ad hoc committees remain exempt.

- It requires people elected to a local board, but not yet sworn into office, to comply with the Brown Act.

- It defines a "meeting" and requires meetings to be held within the boundaries of the public agency, with certain listed exceptions.

These exceptions include the inspection of property outside the agency boundaries; participating in a multi-agency meeting, so long as the meeting is in the jurisdiction of one of the participating public agencies; meeting at a nearby meeting facility (if there is not a suitable one in the boundaries of the agency) or at the agency's principal office if it is outside the boundaries; meeting with state or federal officials; meeting at facilities outside the agency and owned by the agency; and meeting with the agency's attorney at the attorney's office.

It also requires local agency meetings to be held in facilities accessible to the disabled, and local agencies are prohibited from meeting in facilities where a person may not attend unless the attendee makes a purchase.

■It generally precludes a public agency from acting upon or discussing items not included in the posted agenda for the meeting, except for brief responses to items raised by the public. Descriptions of agenda items must be "sufficient to inform an interested member of the public about the subject matter under consideration." It requires that items added to the agenda must be accompanied by a finding that there is a need to take immediate action on the item.

■It requires agendas for closed sessions to be posted, and spells out detailed reporting requirements on the results.

■Current law governing attorney-client closed sessions generally requires that litigation be pending or that "based on existing facts and circumstances, there is a significant exposure to litigation against the local agency." SB 36 defines the term "existing facts and circumstances."

■It requires a public agency to give an employee 24 hours notice that he or she may request a personnel discussion about himself or herself to be held in open session. It also precludes performance reviews of independent contractors from being held in closed session.

■It contains detailed requirements on reporting the results of closed sessions such as the action taken and the vote or abstention of every member present. The bill would prohibit any action for injury to reputation or other personal interest by an employee with respect to whom a disclosure is made by a legislative body in compliance with the Act.

■It requires public agencies to keep minutes of closed sessions and to appoint a person for such purpose.

■It specifies that writings intended for distribution to members by any person in connection with a matter subject to discussion or consideration at a public meeting are public records, whether or not actually distributed to, or received by the legislative body.

■Current law provides that it is a misdemeanor to violate the Brown Act with knowledge that the action is a violation. This bill instead provides that it is a misdemeanor to violate the Brown Act "with the intent to deprive the public of information to which it is entitled."

Senate Bill 36 differs from the bills the governor vetoed in the following primary respects:

■It authorizes a court, upon making certain determinations, to order the tape recording of closed sessions.

■SB 1538 and AB 3476 provided a 30-day statute of limitations for actions brought alleging Brown Act violations, or 90 days if the action challenged was taken in **closed** session. Senate Bill 36 provides that the general time limit for bringing an action is 90 days, but 30 days if the action was taken in open session but allegedly in violation of the agenda requirements of the Brown Act.

■SB 1538 and AB 3476 reversed a court of appeals decision which allowed the invading of the confidentiality of written memos from an attorney to the board. SB 36 does not contain such a provision. The case, Roberts v. City of Palmdale, has since been granted hearing by the California Supreme Court. ACWA will be participating in a friend of the court brief being filed with the Supreme Court. Your Board will be informed of the Roberts ruling when rendered and the effect on Metropolitan.

Board Committee Assignments

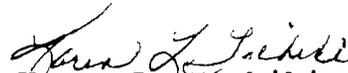
This letter is referred for information to:

The Legal and Claims Committee because of its authority concerning legislation dealing with public agencies, pursuant to Administrative Code section 2462 (f); and

The Special Committee on Legislation because of its authority over legislation concerning Metropolitan, pursuant to Administrative Code section 2582 (a) and (b).

Recommendation

For information only.


Karen L. Tachiki

CIR\mg
board\SB36.bdl
Att.

Introduced by Senator Kopp

December 7, 1992

An act to amend Sections 54951.7, 54952.2, 54952.3, 54953, 54953.5, 54954, 54954.2, 54954.3, 54956.9, 54957, 54957.1, 54957.2, 54957.5, 54957.7, 54959, 54960, 54960.1, and 54961 of, to amend and renumber Sections 54952.5, 54952.6, and 54952.7 of, and to add Sections 54952.5, 54952.6, 54953.6, 54954.5, and 54955.2 to, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 36, as introduced, Kopp. Open meetings of local government.

The Ralph M. Brown Act generally requires that the meetings of the legislative bodies of local agencies, as those terms are defined, be conducted openly, with specified exceptions. Among other things, the act provides for certain notice requirements concerning public meetings and makes it a misdemeanor for a member of a legislative body to attend a meeting where a violation occurs with knowledge of the fact that the meeting violates the act.

Under existing law, local agency, for purposes of the Ralph M. Brown Act, includes any nonprofit corporation created by one or more local agencies having members on its board of directors with the purpose of making or operating any public work project.

This bill would define public work project to include any structure or infrastructure improvement, and its associated services and activities intended for public rather than private benefit.

The Ralph M. Brown Act defines legislative body as any multimember body which exercises any authority of a legislative body of a local agency delegated to it by that

legislative body.

This bill would specify that such a body that exercises any material authority of a legislative body of a local agency delegated to it is a legislative body whether it is organized and operated by a local agency or by a private corporation specifically created to exercise the delegated authority with a specified exception.

The Ralph M. Brown Act defines legislative body to include an advisory body of a local agency.

This bill would require an advisory body to post an agenda for its meetings in the manner required of the body it advises, thereby imposing a state-mandated local program. The bill would exclude a limited duration ad hoc committee from the definition of legislative body but would include any standing committee, as defined, of a governing body irrespective of its composition.

This bill would also define "member of a legislative body of a local agency" to include any person elected to serve as a member of a legislative body and who has not yet assumed the duties of office.

The Ralph M. Brown Act generally requires all meetings of the legislative body of a local agency to be open and public.

This bill would define "meeting," with exceptions, as any congregation of a majority of the members of a legislative body in the same time and place to hear, discuss, or deliberate upon any item within the subject matter jurisdiction of the legislative body or its local agency, and any use of direct communication, personal intermediaries, or technological devices employed by a majority of the members to develop a collective concurrence as to action to be taken on an item.

Existing law requires all meetings of the legislative body of a local agency shall be open and public with specified exceptions.

This bill would prohibit a legislative body from taking action by secret ballot.

The Ralph M. Brown Act permits recording of open and public meetings by any person.

This bill would make any recording made at the direction of a local agency a public record under the California Public Records Act, as specified.

The bill would also provide that no legislative body shall prohibit or otherwise restrict the broadcast of its proceedings in the absence of a reasonable finding that the broadcast cannot be accomplished without disruption.

Under the Ralph M. Brown Act, meetings of the legislative body of a local agency need not be held within the boundaries of the territory over which the agency exercises jurisdiction. If an emergency makes the designated meeting place unsafe the presiding officer may designate a meeting place for the duration of the emergency.

This bill would require meetings to be held within the boundaries of the territory of the agency, with limited exceptions and with additional exceptions for the governing board of a school district, and would permit the presiding officer's designee to designate an emergency meeting place.

The Ralph M. Brown Act requires the posting of an agenda at least 72 hours before a regular meeting of a legislative body briefly describing each item of business and restricts action or discussion of the meeting to these items on the agenda, unless, by at least a $\frac{2}{3}$ vote, as specified, the legislative body decides there is a need for action on a nonagenda item.

This bill would revise the content of that description and would permit members of a legislative body to respond to certain questions not relating to agenda items. This bill would make further restrictions on the discussion or action on nonagenda items.

The Ralph M. Brown Act requires the agenda for a regular meeting to provide an opportunity for members of the public to address the legislative body.

This bill would require the agenda for a special meeting at which action is proposed to be taken on an item to provide an opportunity for members of the public to address the legislative body prior to action on the item. The bill would further require the legislative body not to abridge or prohibit constitutionally protected speech, including, but not limited to, public criticism of the agency, as specified.

This bill would also prescribe disclosures of the nature of closed sessions according to a specified format.

Existing law specifies the circumstances requiring a notice of the adjournment or continuance of a meeting to be made

and posted.

This bill would further require that the notice of adjournment or continuance be given to the news media, as specified, thereby imposing a state-mandated local program.

The Ralph M. Brown Act authorizes closed sessions of a legislative body to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session would prejudice the position of the local agency in the litigation and describes the facts and circumstances that constitute pending litigation. Existing law states that this authority is the exclusive expression of the lawyer-client privilege for purposes of conducting closed sessions pursuant to the act. The act requires the legal counsel to prepare a memorandum concerning the reasons and legal authority for the closed session.

This bill would state that this authority for closed sessions for the legislative body to confer with or receive advice from its legal counsel does not limit or otherwise affect the lawyer-client privilege as it may apply to written or other communications outside meetings between the legislative body and its legal counsel. The bill would specify additional facts and circumstances for determining what is pending litigation. The bill would delete the memorandum requirement.

Under the Ralph M. Brown Act, closed sessions may be held for various reasons, including matters relating to employees, as defined.

This bill would revise the definition of employee to exclude any elected official, member of a legislative body, or person providing services to the local agency as an independent contractor or the employee of an independent contractor and would require that, as a condition of holding a closed session on complaints against an employee, charges to consider disciplinary action, or to consider dismissal, the employee be given written notice of his or her right to a public hearing. The failure to give the notice would nullify any action taken in the closed session against the employee.

The Ralph M. Brown Act requires the legislative body to publicly report closed session actions taken and roll call votes to appoint, employ, or dismiss a public employee.

This bill would instead require the legislative body to publicly report any action taken in closed session and the vote or abstention of every member present on real estate negotiations, litigation and pending litigation issues with specified exceptions, claims for various liability losses, various personnel actions, and certain collective bargaining matters. The bill would prohibit any action for injury to reputation or other personal interest by an employee with respect to whom a disclosure is made by a legislative body in compliance with these provisions. The bill would prescribe how the reports are to be made and would require a brief statement of the information to be posted, as specified, thereby imposing a state-mandated local program.

The Ralph M. Brown Act permits legislative bodies of local agencies to designate a clerk, officer, or employee to attend each closed session and enter in a minute book a record of the topics discussed and decisions made at the meeting.

This bill would require the legislative bodies to appoint a person for that purpose.

Under the Ralph M. Brown Act, agendas and writings distributed to members of the legislative body by persons connected with the body for discussion or consideration at a public meeting of the body are public records unless specifically exempt from public disclosure.

This bill would specify that writings intended for distribution to members by any person in connection with a matter subject to discussion or consideration at a public meeting are public records, and would specify that writings intended for distribution prior to commencement of a public meeting are public records, whether or not actually distributed to, or received by, the legislative body at the time of request for copying. The bill would require that writings that are made public records under this provision and are distributed during a public meeting shall be made available for public inspection immediately, or after the meeting, as specified.

The Ralph M. Brown Act requires the legislative body to state the general reason or reasons for holding any closed session prior to or after holding the closed session.

This bill would require the reasons to be stated prior to

holding the closed session and would specify the format for the statements.

The Ralph M. Brown Act makes it a misdemeanor for a member of a legislative body to attend or participate in a meeting of the legislative body where action is taken in violation of the act with knowledge of the fact that the meeting is in violation of the act.

This bill would instead make it a misdemeanor if the member attends or participates with intent to deprive the public of information to which it is entitled under the act.

This bill, by enlarging the number of persons and bodies subject to the Ralph M. Brown Act and by revising the definition of a meeting elsewhere in the bill, would enlarge the scope of existing crimes and would create new crimes and would thereby impose a state-mandated local program.

The Ralph M. Brown Act permits any interested person to commence an action by mandamus or injunction to obtain a judicial determination that an action taken by a legislative body in violation of specified provisions of the act is null and void, unless any of specified conditions exist. However, a prior demand must first be made of the legislative body to cure or correct the alleged violation within 30 days from the date the action was taken.

This bill would expressly permit the district attorney or any interested person to commence an action as described and would also permit an action to determine the validity of any rule or action by the legislative body to limit the expression of its members or to compel the legislative body to tape record its closed sessions, as specified. The bill would also require the written demand to be made within 90 days if the alleged violation occurred in a closed meeting.

The bill would prohibit the conduct of meetings or functions in facilities inaccessible to disabled persons or that require members of the public to make a payment or purchase.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the cost of mandates that do not

exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that for certain costs no reimbursement is required by this act for a specified reason. However, the bill would provide that if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54951.7 of the Government
2 Code is amended to read:

3 54951.7. "Local agency" includes any nonprofit
4 corporation, created by one or more local agencies, any
5 one of the members of whose board of directors is
6 appointed by ~~such~~ the local agencies and which is formed
7 to acquire, construct, reconstruct, maintain or operate
8 any public work project. *For the purposes of this section,*
9 *"public work project" includes any structure or*
10 *infrastructural improvement, and its associated services*
11 *and activities, intended for public use rather than private*
12 *residential use.*

3 SEC. 2. Section 54952.2 of the Government Code is
4 amended to read:

5 54952.2. As used in this chapter, "legislative body"
6 also means any board, commission, committee, or similar
7 multimember body which exercises any *material*
8 authority of a legislative body of a local agency delegated
9 to it by that legislative body *whether the board,*
10 *commission, committee, or other body is organized and*
11 *operated by the local agency or by a private corporation*
12 *specifically created to exercise the delegated authority.*
13 *As used in this chapter, "legislative body" does not*

1 *include the lessee of any hospital the whole or any part*
2 *of which is leased pursuant to subdivision (p) of Section*
3 *32121 or Section 32126 of the Health and Safety Code as*
4 *of the effective date of this act.*

5 SEC. 3. Section 54952.3 of the Government Code is
6 amended to read:

7 54952.3. As used in this chapter, "legislative body"
8 also includes any advisory commission, advisory
9 committee or advisory body of a local agency, created by
10 charter, ordinance, resolution, or by any similar formal
11 action of a legislative body or member of a legislative
12 body of a local agency.

13 Meetings of ~~such~~ those advisory commissions,
14 committees or bodies concerning subjects which do not
15 require an examination of facts and data outside the
16 territory of the local agency shall be held within the
17 territory of the local agency and shall be open and public,
18 and notice thereof must be delivered personally or by
19 mail at least 24 hours before the time of ~~such~~ the meeting
20 to each person who has requested, in writing, notice of
21 ~~such~~ the meeting.

22 If the advisory commission, committee or body elects
23 to provide for the holding of regular meetings, it shall
24 provide by bylaws, or by whatever other rule is utilized
25 by that advisory body for the conduct of its business, for
26 the time and place for holding ~~such~~ regular meetings. No
27 ~~other~~ notice of regular meetings, *other than the posting*
28 *of an agenda pursuant to Section 54954.2 in the place used*
29 *by the legislative body that it advises, is required.*

30 "Legislative body" as defined in this section does not
31 include a *limited duration ad hoc* committee composed
32 solely of members of the governing body of a local agency
33 which are less than a quorum of ~~such~~ the governing
34 body, *but does include any standing committee of a*
35 *governing body irrespective of its composition. For*
36 *purposes of this section, "standing committee" means a*
37 *permanent body created by charter, ordinance,*
38 *resolution, or by any similar formal action of a legislative*
39 *body or member of a legislative body of a local agency*
40 *and which holds regularly scheduled meetings.*

1 The provisions of Sections 54954, 54955, and 54955.1;
2 and ~~54956~~ shall not apply to meetings under this section.

3 SEC. 4. Section 54952.5 of the Government Code is
4 amended and renumbered to read:

5 ~~54952.5.~~

6 54952.4. As used in this chapter "legislative body" also
7 includes, but is not limited to, planning commissions,
8 library boards, recreation commissions, and other
9 permanent boards or commissions of a local agency.

10 SEC. 5. Section 54952.5 is added to the Government
11 Code, to read:

12 54952.5. As used in this chapter, "member of a
13 legislative body of a local agency" includes, but is not
14 limited to, any person elected to serve as a member of a
15 legislative body who has not yet assumed the duties of
16 office. That person shall conform his or her conduct to the
17 requirements of this chapter and shall be treated for
18 purposes of enforcement of this chapter as if he or she has
19 already assumed office, and shall be individually liable for
20 violation of this chapter prior to assuming office.

21 SEC. 6. Section 54952.6 of the Government Code is
22 amended and renumbered to read:

23 ~~54952.6.~~

24 54952.7. As used in this chapter, "action taken" means
25 a collective decision made by a majority of the members
26 of a legislative body, a collective commitment or promise
27 by a majority of the members of a legislative body to
28 make a positive or a negative decision, or an actual vote
29 by a majority of the members of a legislative body when
30 sitting as a body or entity, upon a motion, proposal,
31 resolution, order or ordinance.

32 SEC. 7. Section 54952.6 is added to the Government
33 Code, to read:

34 54952.6. (a) As used in this chapter, "meeting"
35 includes all of the following:

36 (1) Any congregation of a majority of the members of
37 a legislative body in the same time and place to hear,
38 discuss, or deliberate upon any item that is within the
39 subject matter jurisdiction of the legislative body or the
40 local agency to which it pertains.

1 (2) Any use of direct communication, personal
2 intermediaries, or technological devices that is employed
3 by a majority of the members of the legislative body to
4 develop a collective concurrence as to action to be taken
5 on an item by the members of the legislative body.

6 (b) Nothing in subdivision (a) shall impose the
7 requirements of this chapter upon any of the following:

8 (1) Individual contacts or conversations between a
9 member of a legislative body and any other person.

10 (2) The attendance of a majority of the members of a
11 legislative body at general conferences that are open to
12 the public, that involve a discussion of broad issues, and
13 that are attended by a broad spectrum of officials from a
14 variety of government agencies, provided that a majority
15 of the members do not discuss among themselves
16 business of a specific nature that is within the subject
17 matter jurisdiction of the legislative body of the local
18 agency. Nothing in this paragraph is intended to allow
19 members of the public free admission to a general
20 conference at which conference organizers have
21 required other participants or registrants to pay fees or
22 charges as a condition of attendance.

23 (3) The attendance of a majority of the members of a
24 legislative body at an open and publicized meeting
25 organized to address a topic of local community concern
26 by a person or organization other than the local agency,
27 provided that a majority of the members do not discuss
28 among themselves business of a specific nature that is
29 within the subject matter jurisdiction of the legislative
30 body of the local agency.

31 (4) The attendance of a majority of the members at a
32 purely social or ceremonial occasion, provided that a
33 majority of the members do not discuss among
34 themselves business of a specific nature that is within the
35 subject matter jurisdiction of the legislative body of the
36 local agency.

37 SEC. 8. Section 54952.7 of the Government Code is
38 amended and renumbered to read:

39 ~~54952.7.~~

40 **54952.8.** A legislative body of a local agency may

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

9 SEC. 9. Section 54953 of the Government Code, as
10 amended by Section 1 of Chapter 399 of the Statutes of
11 1988, is amended to read:

12 54953. (a) All meetings of the legislative body of a
13 local agency shall be open and public, and all persons
14 shall be permitted to attend any meeting of the
15 legislative body of a local agency, except as otherwise
16 provided in this chapter.

17 (b) Notwithstanding any other provision of law, the
18 legislative body of a local agency may use video
19 teleconferencing for the benefit of the public or the
20 legislative body of a local agency in connection with any
21 meeting or proceeding authorized by law. The use of
22 video teleconferencing, as authorized by this chapter,
23 shall be limited to the receipt of public comment or
24 testimony by the legislative body and to deliberations of
25 the legislative body. If the legislative body of a local
26 agency elects to use video teleconferencing, it shall post
27 agendas at all video teleconference locations and adopt
28 reasonable regulations to adequately protect the
29 statutory or constitutional rights of the parties or the
30 public appearing before the legislative body of a local
31 agency. The term "video teleconference" shall mean a
32 system which provides for both audio and visual
33 participation between all members of the legislative body
34 and the public attending a meeting or hearing at any
35 video teleconference location.

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

38 This section shall remain in effect until January 1, 1994,
39 and on that date is repealed, unless a later enacted
40 statute, which is chaptered before January 1, 1994, deletes

1 or extends that date.

2 SEC. 9.5. Section 54953 of the Government Code, as
3 amended by Section 2 of Chapter 399 of the Statutes of
4 1988, is amended to read:

5 54953. All meetings of the legislative body of a local
6 agency shall be open and public, and all persons shall be
7 permitted to attend any meeting of the legislative body
8 of a local agency, except as otherwise provided in this
9 chapter.

10 *No legislative body shall take action by secret ballot,*
11 *whether preliminary or final.*

12 This section shall become operative January 1, 1994.

13 SEC. 10. Section 54953.5 of the Government Code is
14 amended to read:

15 54953.5. Any person attending an open and public
16 meeting of a legislative body of a local agency shall have
17 the right to record the proceedings ~~on a~~ *with an audio*
18 *or video* tape recorder *or a still or motion picture camera*
19 *in the absence of a reasonable finding of by the legislative*
20 *body of the local agency that such the recording cannot*
21 *continue without noise, illumination, or obstruction of*
22 *view that constitutes, or would constitute, a persistent*
23 *disruption of the proceedings. Any tape or film record of*
24 *these proceedings made for whatever purpose by or at*
25 *the direction of the local agency shall be a public record*
26 *subject to inspection pursuant to the California Public*
27 *Records Act (Chapter 3.5 (commencing with Section*
28 *6250) of Division 7 of Title 1), and shall not be erased or*
29 *destroyed for 30 days after the taping or recording. Any*
30 *inspection of a video or tape recording shall be provided*
31 *without charge on a tape recorder made available by the*
32 *local agency.*

33 SEC. 10.5. Section 54953.6 is added to the
34 Government Code, to read:

35 54953.6. No legislative body shall prohibit or
36 otherwise restrict the broadcast of its proceedings in the
37 absence of a reasonable finding that the broadcast cannot
38 be accomplished without noise, illumination, or
39 obstruction of view that would constitute a persistent
40 disruption of the proceedings.

1 SEC. 11. Section 54954 of the Government Code is
2 amended to read:

3 54954. (a) The legislative body of a local agency
4 shall provide, by ordinance, resolution, by-laws, or by
5 whatever other rule is required for the conduct of
6 business by that body, the time *and place* for holding
7 regular meetings. ~~Unless otherwise provided for in the~~
8 ~~act under which the local agency was formed, meetings~~
9 ~~of the legislative body need not be held within the~~
0 ~~boundaries of the territory over which the local agency~~
1 ~~exercises jurisdiction. If at any time any regular meeting~~
2 ~~falls on a holiday, such regular meeting shall be held on~~
3 ~~the next business day. If, by reason of fire, flood,~~
4 ~~earthquake or other emergency, it shall be unsafe to meet~~
5 ~~in the place designated, the meetings may be held for the~~
6 ~~duration of the emergency at such place as is designated~~
7 ~~by the presiding officer of the legislative body.~~

8 (b) Meetings of the legislative body shall be held
9 within the boundaries of the territory over which the
0 local agency exercises jurisdiction except to do any of the
1 following:

2 (1) Otherwise comply with the state or federal law.

3 (2) Inspect real or personal property which cannot be
4 conveniently brought within the boundaries of the
5 territory over which the local agency exercises
6 jurisdiction.

7 (3) Participate in meetings or discussions of
8 multiagency significance that are outside the boundaries
9 of a local agency's jurisdiction. However, any meeting or
0 discussion held pursuant to this subdivision shall take
1 place within the jurisdiction of one of the participating
2 local agencies and be open and noticed by all
3 participating agencies as provided for in this chapter.

4 (4) Meet in the closest meeting facility if the local
5 agency has no meeting facility within the boundaries of
6 the territory over which the local agency exercises
7 jurisdiction, or at the principal office of the local agency
8 if that office is located outside the territory over which
9 the agency exercises jurisdiction.

10 (5) Meet outside their immediate jurisdiction with

1 *elected or appointed officials of the United States or the*
2 *State of California when a local meeting would be*
3 *impractical, solely to discuss a legislative or regulatory*
4 *issue affecting the local agency and over which the*
5 *federal or state officials have jurisdiction, if the local*
6 *officials present a report of the substance and outcome of*
7 *the meeting at their next regular or special meeting*
8 *within their jurisdiction.*

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

13 (7) *Visit the office of the local agency's legal counsel*
14 *for a closed session on pending litigation held pursuant to*
15 *Section 54956.9, when to do so would reduce legal fees or*
16 *costs, provided that the meeting is noticed as a special*
17 *meeting pursuant to Section 54956.*

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

22 (1) *Attend a conference on nonadversarial collective*
23 *bargaining techniques sponsored by the California*
24 *Foundation for Improvement of Employer-Employee*
25 *Relations, provided that the meeting is noticed as a*
26 *special meeting pursuant to Section 54956 and open to*
27 *the public and that the trustees present a report of the*
28 *substance and outcome of the meeting at their next*
29 *regular meeting within their district.*

30 (2) *Interview members of the public residing in*
31 *another district with reference to the trustees' potential*
32 *employment of the superintendent of that district,*
33 *provided that the meeting is noticed as a special meeting*
34 *pursuant to Section 54956 and open to the public and that*
35 *the trustees present a report of the substance and*
36 *outcome of the meeting at their next regular meeting*
37 *within their district.*

38 (d) *If at any time any regular meeting falls on a*
39 *holiday, that regular meeting shall be held on the next*
40 *business day.*

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

9 SEC. 12. Section 54954.2 of the Government Code is
0 amended to read:

1 54954.2. (a) At least 72 hours before a regular
2 meeting, the legislative body of the local agency, or its
3 designee, shall post an agenda containing a ~~brief general~~
4 description of each item of business to be transacted or
5 discussed at the meeting. ~~The agenda shall specify the~~
6 ~~time and location of the regular meeting and shall be~~
7 ~~posted in a location that is freely accessible to members~~
8 ~~of the public. No action shall be taken on any item not~~
9 ~~appearing on the posted agenda.~~

10 ~~(b)~~ sufficient to inform an interested member of the
11 public about the subject matter under consideration so
12 that he or she can determine whether to monitor or
13 participate in the meeting of the body. The description
14 may refer to explanatory documents, such as
15 correspondence or the reports of a committee, staff
16 official, or department available for public inspection and
17 copying at a stated location during the normal office
18 hours of the local agency. If there is a reference to a
19 report or other item that is available to the public, the
20 contents of that report may be used to determine
21 whether the agenda description meets the requirements
22 of this section. The agenda shall specify the time and
23 location of the regular meeting and shall be posted in a
24 location that is freely accessible to members of the public.

25 (b) No action or discussion shall be undertaken on any
26 item not appearing on the posted agenda, except that
27 members of a legislative body may briefly respond to
28 statements made or questions posed by persons
29 exercising their public testimony rights under Section
30 54954.3. In addition, on their own initiative, or in response

1 to questions posed by the public, members of a legislative
2 body may ask a question for clarification, provide a
3 reference to staff or other resources for factual
4 information, or request staff to report back to the body at
5 a subsequent meeting concerning any matter.
6 Furthermore, a member of a legislative body, or the body
7 itself, may take action to direct staff to place a matter of
8 business on a future agenda.

9 (c) Notwithstanding subdivision ~~(a)~~ (b), the
10 legislative body may take action on items of business not
11 appearing on the posted agenda under any of the
12 following conditions:

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

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

23 (3) The item was posted pursuant to subdivision (a)
24 for a prior meeting of the legislative body occurring not
25 more than five calendar days prior to the date action is
26 taken on the item, and at the prior meeting the item was
27 continued to the meeting at which action is being taken.

28 SEC. 13. Section 54954.3 of the Government Code is
29 amended to read:

30 54954.3. (a) Every agenda for regular meetings shall
31 provide an opportunity for members of the public to
32 directly address the legislative body on any item of
33 interest to the public, before or during the legislative
34 body's consideration of the item, that is within the subject
35 matter jurisdiction of the legislative body, provided that
36 no action shall be taken on any item not appearing on the
37 agenda unless the action is otherwise authorized by
38 subdivision (b) of Section 54954.2. *Every agenda for a*
39 *special meeting at which action is proposed to be taken*
40 *on an item shall provide an opportunity for members of*

1 *the public to directly address the legislative body*
2 *concerning that item prior to action on the item.*
3 ~~However, in the case of a meeting of a city council in a~~
4 ~~city or a board of supervisors in a city and county,~~ the
5 agenda need not provide an opportunity for members of
6 the public to address the ~~council or board~~ legislative
7 body on any item that has already been considered by a
8 committee, composed exclusively of members of the
9 ~~council or board~~ legislative body, at a public meeting
10 wherein all interested members of the public were
11 afforded the opportunity to address the committee on the
12 item, before or during the committee's consideration of
13 the item, unless the item has been substantially changed
14 since the committee heard the item, as determined by
15 the ~~council or board~~ legislative body.

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

22 (c) *The legislative body of a local agency shall not*
23 *abridge or prohibit constitutionally protected speech*
24 *including, but not limited to, public criticism of the*
25 *policies, procedures, programs, or services of the agency,*
26 *or of any other aspect of its proposals or activities, or of*
27 *the acts or omissions of the legislative body, on the basis*
28 *that the performance of one or more public employees is*
29 *implicated, or on any basis other than reasonable time*
30 *constraints adopted in regulations pursuant to*
31 *subdivision (b). Nothing in this subdivision shall confer*
32 *any privilege or protection for expression beyond that*
33 *otherwise provided by law.*

34 SEC. 14. Section 54954.5 is added to the Government
35 Code, to read:

36 54954.5. (a) In addition to the description of items to
37 be discussed or acted upon in open and public session, the
38 agenda posted pursuant to Section 54954, any mailed
39 notice given pursuant to Section 54954.1, and any call and
40 notice delivered to the local media and posted pursuant

1 to Section 54956 and any determination of necessity made
2 under paragraph (2) of subdivision (c) of Section 52954.2
3 shall specify and disclose the nature of any closed sessions
4 in the following form:

5 (1) With respect to a closed session held pursuant to
6 Section 54956.7, the item shall be designated
7 "License/Permit Determination" and shall specify the
8 number of license or permit applicants involved.

9 (2) With respect to every item of business to be
10 discussed in closed session pursuant to Section 54956.8,
11 the item shall be designated under the heading
12 "Conference with Real Property Negotiator" and shall
13 specify, by street address, or, if there is not a street
14 address, by parcel number, or other unique reference,
15 the real property under negotiation, the party or parties
16 who are directly or through an agent negotiating with the
17 agent of the legislative body. It shall also specify that the
18 conference will concern the price and terms of payment.

19 (3) With respect to every item of business to be
20 discussed in closed session pursuant to Section 54956.9,
21 the item shall be designated under the heading
22 "Conference with Legal Counsel" and the subheading of
23 either "Existing Litigation" or "Anticipated Litigation."

24 Entries under "Existing Litigation" shall identify, by
25 reference to the claim and the claimant's name or the
26 case number and name of the adverse party, any claim or
27 case under discussion pursuant to subdivision (a) of
28 Section 54956.9. If the identification would jeopardize the
29 agency's ability to effectuate service of process upon one
30 or more unserved parties, the phrase "unspecified to
31 protect service of process" shall be used instead of the
32 identification. If the identification would jeopardize the
33 local agency's ability to conclude existing settlement
34 negotiations to its advantage, the phrase "unspecified to
35 protect settlement advantage" shall be used instead of
36 the identification.

37 Entries under "Anticipated Litigation" shall refer to
38 closed sessions called pursuant to subdivision (b) or (c)
39 of Section 54956.9, and shall indicate, after the phrase "As
40 defendant," the number of distinct cases or potential

1 cases to be discussed as instances of anticipated litigation
2 against the agency, and after the phrase, "As plaintiff,"
3 the number of distinct claims or cases to be discussed as
4 instances of anticipated litigation to be filed by the
5 agency.

6 (4) With respect to every item of business to be
7 discussed in closed session pursuant to Section 54956.95,
8 the item shall be designated under the heading "Liability
9 Claims" and shall specify, with respect to each claim to
10 be discussed, the claimant's name and the claim number,
11 if any, and the name of the local agency that the claim has
12 been filed against.

13 (5) With respect to every item of business to be
14 discussed in closed session pursuant to Section 54957, the
15 item shall be designated "Threat to Public Services or
16 Facilities" and shall specify the name, title, and agency of
17 any law enforcement officers to be conferred with; or
18 shall be designated "Public Employee Appointment" and
19 shall specify the title or description of any position to be
20 filled by the appointment; or shall be designated "Public
21 Employee Hiring" and shall specify the title or
22 description of any position to be filled by hiring; or shall
23 be designated "Public Employee Performance
24 Evaluation" and shall specify the name and position of
25 any employee who is under consideration for a change in
26 compensation or benefits; or shall be designated
27 "Discipline/Dismissal of One or More Public
28 Employees."

29 (6) With respect to every item of business to be
30 discussed in closed session pursuant to Section 54957.6,
31 the item shall either be designated under the heading
32 "Conference With Agency Labor Negotiator" and shall
33 specify the name of any organization of employees with
34 whom the negotiations to be discussed are being
35 conducted, or the names and titles of individual
36 employees, unrepresented by an organization, with
37 whom the negotiations to be discussed are being
38 conducted.

39 (7) With respect to closed sessions called pursuant to
40 Section 37606 or 37624.3 of the Government Code or

1 Section 32106 or 32155 of the Health and Safety Code, the
2 item either shall be headed "Report Involving Trade
3 Secret," shall specify whether the discussion will concern
4 a proposed new service, a proposed new program, or a
5 proposed new facility, or shall be headed "Hearing(s)"
6 and shall specify whether the testimony or deliberation
7 will concern staff privileges, the report of a medical audit
8 committee, or the report of a quality assurance
9 committee. For the purposes of this chapter, any hospital
10 subject to this chapter may hold closed session meetings
11 pursuant to Section 37606 or 37624.3 of the Government
12 Code or Section 32106 or 32155 of the Health and Safety
13 Code, whether or not a hospital is otherwise subject to the
14 Local Hospital District Law (Division 23 (commencing
15 with Section 32000) of the Health and Safety Code).

16 (b) In case of multiple items of business under the
17 same category, lines may be added and the location of
18 information may be reformatted to eliminate
19 unnecessary duplication and space, as long as the
20 relationship of information concerning the same item is
21 reasonably clear to the reader. Nothing in this section
22 precludes, as an alternative to the inclusion of lengthy
23 lists of names or other information in the agenda, or as a
24 means of adding items to an earlier completed agenda,
25 the incorporation by reference to separately prepared
26 documents containing the required information, as long
27 as copies of those documents are posted adjacent to the
28 agenda within the time periods required by Sections
29 54954.2 and 54956 and provided with any mailed or
30 delivered notices required by Section 54954.1 or 54956.

31 SEC. 15. Section 54955.2 is added to the Government
32 Code, to read:

33 54955.2. In the case of any adjournment pursuant to
34 Section 54955 or any continuance pursuant to Section
35 54955.1 for which posting of the notice or order is
36 required, the notice or order shall also, no later than one
37 hour prior to resumption of the adjourned or continued
38 meeting, be communicated by telephone or facsimile
39 transmission to each local newspaper and radio or
40 television station that has requested notice of special

1 meetings pursuant to Section 54956 and that has provided
2 telephone or facsimile transmission numbers for this
3 purpose.

4 SEC. 16. Section 54956.9 of the Government Code is
5 amended to read:

6 54956.9. Nothing in this chapter shall be construed to
7 prevent a legislative body of a local agency, based on
8 advice of its legal counsel, from holding a closed session
9 to confer with, or receive advice from, its legal counsel
10 regarding pending litigation when discussion in open
11 session concerning those matters would prejudice the
12 position of the local agency in the litigation.

13 For purposes of this chapter, all expressions of the
14 lawyer-client privilege other than those provided in this
15 section are hereby abrogated. This section is the exclusive
16 expression of the lawyer-client privilege for purposes of
17 conducting closed-session meetings pursuant to this
18 chapter. For purposes of this section, litigation shall be
19 considered pending when any of the following
20 circumstances exist:

21 (a) An adjudicatory proceeding before a court,
22 administrative body exercising its adjudicatory authority,
23 hearing officer, or arbitrator, to which the local agency is
24 a party, has been initiated formally.

25 (b) (1) A point has been reached where, in the
26 opinion of the legislative body of the local agency on the
27 advice of its legal counsel, based on existing facts and
28 circumstances, there is a significant exposure to litigation
29 against the local agency.

30 (2) Based on existing facts and circumstances, the
31 legislative body of the local agency is meeting only to
32 decide whether a closed session is authorized pursuant to
33 paragraph (1) of this subdivision.

34 *For purposes of paragraphs (1) and (2), "existing facts*
35 *and circumstances" shall consist only of one of the*
36 *following:*

37 *(A) Facts and circumstances that might result in*
38 *litigation against the agency but are not yet known to a*
39 *potential plaintiff or plaintiffs, which facts and*
40 *circumstances need not be specified.*

1 (B) Facts and circumstances, including, but not
2 limited to, an accident, disaster, incident, or transactional
3 occurrence that might result in litigation against the
4 agency and that are known to a potential plaintiff or
5 plaintiffs, which facts or circumstances shall be specified
6 publicly prior to the closed session.

7 (C) The receipt of a claim pursuant to the Tort Claims
8 Act or some other written communication from a
9 potential plaintiff threatening litigation, which claim or
10 communication shall be available for public inspection
11 pursuant to Section 54957.5.

12 (D) A statement made in an open and public meeting
13 threatening litigation made by a person on a specific
14 matter within the responsibility of the legislative body.

15 (E) A statement made outside an open and public
16 meeting threatening litigation made by a person on a
17 specific matter within the responsibility of the legislative
18 body so long as the official or employee of the legislative
19 body receiving the threat makes a contemporaneous
20 record of the communication, which record shall be
21 available for public inspection pursuant to Section
22 54957.5.

23 (F) Nothing in this section shall require disclosure of
24 written communications that are privileged and not
25 subject to disclosure pursuant to the California Public
26 Records Act (Chapter 3.5 (commencing with Section
27 6250) of Division 7 of Title 1).

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

31 Prior to holding a closed session pursuant to this
32 section, the legislative body of the local agency shall state
33 publicly to which subdivision it is pursuant. If the session
34 is closed pursuant to subdivision (a), the body shall state
35 the title of or otherwise specifically identify the litigation
36 to be discussed, unless the body states that to do so would
37 jeopardize the agency's ability to effectuate service of
38 process upon one or more unserved parties, or that to do
39 so would jeopardize its ability to conclude existing
40 settlement negotiations to its advantage.

1 The legal counsel of the legislative body of the local
2 agency shall prepare and submit to the body a
3 memorandum stating the specific reasons and legal
4 authority for the closed session. If the closed session is
5 pursuant to subdivision (a), the memorandum shall
6 include the title of the litigation. If the closed session is
7 pursuant to subdivision (b) or (c), the memorandum
8 shall include the existing facts and circumstances on
9 which it is based. The legal counsel shall submit the
10 memorandum to the body prior to the closed session if
11 feasible, and in any case no later than one week after the
12 closed session. The memorandum shall be exempt from
13 disclosure pursuant to Section 6254.1.

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

18 SEC. 17. Section 54957 of the Government Code is
19 amended to read:

20 54957. Nothing contained in this chapter shall be
21 construed to prevent the legislative body of a local
22 agency from holding closed sessions with the Attorney
23 General, district attorney, sheriff, or chief of police, or
24 their respective deputies, on matters posing a threat to
25 the security of public buildings or a threat to the public's
26 right of access to public services or public facilities, or
27 from holding closed sessions during a regular or special
28 meeting to consider the appointment, employment,
29 evaluation of performance, or dismissal of a public
30 employee or to hear complaints or charges brought
31 against ~~such~~ the employee by another person or
32 employee unless ~~such~~ the employee requests a public
33 hearing. *As a condition to holding a closed session on the
34 complaints or charges to consider disciplinary action or to
35 consider dismissal, the employee shall be given written
36 notice of his or her right to have a public hearing rather
37 than a closed session, which notice shall be delivered to
38 the employee personally or by mail at least 24 hours
39 before the time for holding the session. If notice is not
40 given, any disciplinary or other action taken against the*

1 *employee in the closed session shall be null and void.* The
2 legislative body also may exclude from ~~any such that~~
3 public or closed meeting, during the examination of a
4 witness, any or all other witnesses in the matter being
5 investigated by the legislative body.

6 ~~For the purposes of this section, the term "employee"~~
7 ~~shall not include any person elected to office, or~~
8 ~~appointed to an office by the legislative body of a local~~
9 ~~agency; provided, however, that nonelective positions of~~
10 ~~city manager, county administrator, city attorney, county~~
11 ~~counsel, or a department head or other similar~~
12 ~~administrative officer of a local agency shall be~~
13 ~~considered employee positions; and provided, further~~
14 ~~that nonelective positions of general manager, chief~~
15 ~~engineer, legal counsel, district secretary, auditor,~~
16 ~~assessor, treasurer, or tax collector of any governmental~~
17 ~~district supplying services within limited boundaries shall~~
18 ~~be deemed employee positions.~~

19 Nothing in this chapter shall be construed to prevent
20 any board, commission, committee, or other body
21 organized and operated by any private organization as
22 defined in Section 54952 from holding closed sessions to
23 consider (a) matters affecting the national security, or
24 (b) the appointment, employment, evaluation of
25 performance, or dismissal of an employee or to hear
26 complaints or charges brought against ~~such an~~ employee
27 by another person or employee unless ~~such the~~
28 employee requests a public hearing. ~~Such~~ The body also
29 may exclude from ~~any such that~~ public or closed
30 meeting, during the examination of a witness, any or all
31 other witnesses in the matter being investigated by the
32 legislative body.

33 *For the purposes of this section, the term "employee"*
34 *shall not include any elected official, member of a*
35 *legislative body, or person engaged as an independent*
36 *contractor who, during the engagement, provides*
37 *services to multiple clients or customers other than the*
38 *local agency. Nothing in this section shall limit local*
39 *officials' ability to hold closed session meetings pursuant*
40 *to Sections 32106 and 32155 of the Health and Safety*

1 Code.

2 SEC. 18. Section 54957.1 of the Government Code is
3 amended to read:

4 54957.1. (a) The legislative body of any local agency
5 shall publicly report ~~at the public meeting during which~~
6 ~~the closed session is held or at its next public meeting any~~
7 ~~action taken, and any roll call vote thereon, to appoint,~~
8 ~~employ, or dismiss a public employee arising out of any~~
9 ~~closed session of the legislative body any action taken in~~
10 ~~closed session and the vote or abstention of every~~
11 ~~member present thereon, as follows:~~

12 (1) Approval given to the body's negotiator
13 concerning real estate negotiations pursuant to Section
14 54956.8 shall be reported after the agreement is final,
15 upon any inquiry and at its next public meeting. If its own
16 approval renders the agreement final, the body shall
17 report that approval, the substance of the agreement, and
18 the vote thereon in open session at the public meeting
19 during which the closed session is held or, if there are no
20 members of the public present when the closed session
21 ends, at its next meeting. If final approval rests with the
22 other party to the negotiations, the local agency shall
23 disclose the fact of that approval, the substance of the
24 agreement, and the body's vote or votes thereon upon
25 inquiry by any person, as soon as the other party or its
26 agent has informed the local agency of its approval.

27 (2) Approval given to the body's legal counsel to
28 prosecute, defend, or seek or refrain from seeking
29 appellate review or relief, or to otherwise enter as a
30 party, intervenor, or amicus curiae in any form of
31 litigation as the result of a consultation under Section
32 54956.9 shall be reported in open session at the public
33 meeting during which the closed session is held or, if
34 there are no members of the public present when the
35 closed session ends, at its next meeting. In the case of
36 approval given to prosecute an action, if an immediate
37 announcement thereof would jeopardize the agency's
38 ability to effectuate the service of process on one or more
39 unserved parties, the announcement need not identify
40 the action, the defendants, or other particulars, but shall

1 *specify that the direction to prosecute an action has been*
2 *given and that the action, the defendants, and the other*
3 *particulars required to be disclosed by this paragraph*
4 *shall, once service has been effectuated, be disclosed to*
5 *any person upon request, and shall be announced at the*
6 *next public meeting of the body. The report shall identify*
7 *the adverse party or parties, any coparties with the local*
8 *agency, any existing claim or order to be defended*
9 *against, or any factual circumstances or contractual*
10 *dispute giving rise to the local agency's complaint,*
11 *petition, or other litigation initiative.*

12 (3) *Approval given to the body's legal counsel of a*
13 *settlement of pending litigation, as defined in Section*
14 *54956.9, at any stage prior to or during a judicial or*
15 *quasi-judicial proceeding shall be reported after the*
16 *settlement is final, upon any inquiry and at its next public*
17 *meeting. If its own approval renders the settlement final,*
18 *the body shall report that approval, the substance of the*
19 *agreement, and the vote thereon in open session at the*
20 *public meeting during which the closed session is held, or*
21 *if there are no members of the public present when the*
22 *closed session ends, at its next meeting. If final approval*
23 *rests with some other party to the litigation, the local*
24 *agency shall disclose the fact of that approval, the*
25 *substance of the agreement, and the body's vote or votes*
26 *thereon upon inquiry by any person, as soon as the other*
27 *party or its agent has informed the legislative body of its*
28 *approval.*

29 (4) *Disposition reached as to claims discussed in closed*
30 *session pursuant to Section 54956.95 shall be reported as*
31 *soon as reached in a manner that discloses the name of*
32 *the claimant, the name of the local agency claimed*
33 *against, the substance of the claim, and any monetary*
34 *amount approved for payment and agreed upon by the*
35 *claimant.*

36 (5) *Action taken to appoint, employ, dismiss, transfer,*
37 *accept the resignation of, or otherwise affect the*
38 *employment contract of a public employee in closed*
39 *session pursuant to Section 54957 shall be reported at the*
40 *public meeting during which the closed session is held or,*

1 if there are no members of the public present when the
2 closed session ends, at its next meeting. Any report
3 required by this paragraph shall name the employee and
4 position affected and shall specify compensation, job
5 classification or title, and assignment to any specific
6 location. The general requirement of this paragraph
7 notwithstanding, the report of a dismissal or of the
8 nonrenewal of an employment contract shall be deferred
9 until the first public meeting following the exhaustion of
10 administrative remedies, if any.

11 (6) Approval given to the body's representative of an
12 item proposed for or accepted under bargaining in closed
13 session pursuant to Section 54957.6 shall be reported at
14 the public meeting during which the closed session is
15 held or, if there are no members of the public present
16 when the closed session ends, at its next meeting. The
17 report shall identify the item approved and the other
18 party or parties to negotiation if the agreement with
19 respect to that item is final with the body's approval and
20 has been accepted or ratified by the other party.

21 (b) Reports that are required to be made pursuant to
22 this section may be made orally or in writing. The
23 legislative body shall provide to any person who has
24 submitted a written request to the legislative body within
25 24 hours of the posting of the agenda, or to any person
26 who has made a standing request for all documentation
27 as part of a request for notice of meetings pursuant to
28 Section 54954.1 or 54956, if the requester is present at the
29 time the closed session ends, copies of any contracts,
30 settlement agreements, or other affected documents that
31 were finally approved or adopted in the closed session
32 and that embody the information required to be
33 disclosed by immediate report. If the action taken results
34 in one or more substantive amendments to the related
35 documents requiring retyping, the documents need not
36 be released until the retyping is completed during
37 normal business hours, provided that the presiding
38 officer of the legislative body or his or her designee orally
39 summarizes the substance of the amendments for the
40 benefit of the document requester or any other person

1 present and requesting the information.

2 (c) The documentation referred to in paragraph (b)
3 shall be available to any person on the next business day
4 following the meeting in which the action referred to is
5 taken or, in the case of substantial amendments, when
6 any necessary retyping is complete.

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

10 (e) No action for injury to a reputational or other
11 personal interest may be commenced in any court or
12 agency by or on behalf of any employee with respect to
13 whom a disclosure is made by a legislative body in
14 compliance with this section.

15 SEC. 19. Section 54957.2 of the Government Code is
16 amended to read:

17 54957.2. (a) The legislative body of a local agency
18 ~~may, by ordinance or resolution, designate~~ shall appoint
19 a clerk or other officer or employee of the local agency
20 who shall then attend each closed session of the
21 legislative body and keep and enter in a minute book a
22 record of topics discussed and decisions made at the
23 meeting. The minute book made pursuant to this section
24 is not a public record subject to inspection pursuant to the
25 California Public Records Act (Chapter 3.5
26 commencing with Section 6250) of Division 7 of Title 1),
27 and shall be kept confidential. The minute book shall be
28 available only to members of the legislative body or, if a
29 violation of this chapter is alleged to have occurred at a
30 closed session, to a court of general jurisdiction wherein
31 the local agency lies. ~~Such~~ The minute book may, but
32 need not, consist of a recording of the closed session.

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

38 SEC. 20. Section 54957.5 of the Government Code is
39 amended to read:

40 54957.5. (a) Notwithstanding Section 6255 or any

1 other provisions of law, agendas of public meetings and
2 any other writings, when distributed to all, or a majority
3 of all, of the members of a legislative body of a local
4 agency by ~~a member, officer, employee, or agent of such~~
5 ~~body for any person in connection with a matter subject~~
6 ~~to discussion or consideration at a public meeting of such~~
7 ~~the body, are public records under the California Public~~
8 ~~Records Act (Chapter 3.5 (commencing with Section~~
9 ~~6250) of Division 7 of Title 1) as soon as distributed, and~~
10 shall be made available pursuant to Sections 6253 and
11 6256. However, this section shall not include any writing
12 *distributed in connection with a matter subject to*
13 *discussion or consideration in a closed session if the*
14 *writing is exempt from public disclosure under Section*
15 *6253.5, 6254, or 6254.7.*

16 (b) Writings which are public records under
17 subdivision (a) and which are ~~distributed intended for~~
18 ~~distribution~~ prior to commencement of a public meeting
19 shall be made available for public inspection *and copying*
20 upon request prior to commencement of ~~such the~~
21 meeting *whether or not actually distributed to or*
22 *received by the legislative body at the time of the*
23 *request.*

24 (c) Writings which are public records under
25 subdivision (a) and which are distributed during a public
26 meeting ~~and prior to commencement of their discussion~~
27 ~~at such meeting~~ shall be made available for public
28 inspection ~~prior to commencement of, and during, their~~
29 ~~discussion at such meeting immediately if prepared by~~
30 ~~the local agency or a member of its legislative body, or~~
31 ~~after the meeting if prepared by some other person.~~

32 (d) Writings which are public records under
33 subdivision (a) and which are distributed during their
34 discussion at a public meeting shall be made available for
35 public inspection immediately or as soon thereafter as is
36 practicable.

37 (e) Nothing in this section shall be construed to
38 prevent the legislative body of a local agency from
39 charging a fee or deposit for a copy of a public record
40 pursuant to Section 6257. ~~The writings described in~~

1 subdivisions ~~(b)~~, ~~(c)~~, and ~~(d)~~ are subject to the
2 requirements of the California Public Records Act
3 ~~(Chapter 3.5 (commencing with Section 6250), Division~~
4 ~~7, Title 1); and subdivisions (b), (c), and (d)~~

5 ~~(e) This section shall not be construed to exempt from~~
6 ~~public inspection any record covered by that act the~~
7 ~~requirements of the California Public Records Act~~
8 ~~(Chapter 3.5 (commencing with Section 6250) of~~
9 ~~Division 7 of Title 1), or to limit or delay the public's right~~
10 ~~to inspect any record required to be disclosed by that act.~~
11 ~~This section shall not be construed to be applicable to any~~
12 ~~writings solely because they are properly discussed in a~~
13 ~~closed session of a legislative body of the local agency.~~
14 Nothing in this chapter shall be construed to require a
15 legislative body ~~or~~ of a local agency to place any paid
16 advertisement or any other paid notice in any
17 publication.

18 ~~(f) "Writing" for purposes of this section means~~
19 ~~"writing" as defined under Section 6252.~~

20 SEC. 21. Section 54957.7 of the Government Code is
21 amended to read:

22 54957.7. (a) Prior to ~~or after~~ holding any closed
23 session, the legislative body of the local agency shall
24 state, *in an open meeting*, the general reason or reasons
25 for the closed session, and may cite the statutory
26 authority, including the specific section and subdivision,
27 or other legal authority under which the session is being
28 held. In the closed session, the legislative body may
29 consider only those matters covered in its statement. In
30 the case of ~~special, adjourned, and continued meetings,~~
31 ~~the statement shall be made as part of the notice~~
32 ~~provided for the special, adjourned, or continued~~
33 ~~meeting. Nothing in this section shall require or~~
34 ~~authorize the giving of names or other information which~~
35 ~~would constitute an invasion of privacy or otherwise~~
36 ~~unnecessarily divulge the particular facts concerning the~~
37 ~~closed session regular and special meetings, the~~
38 ~~statement shall be made in the form of the agenda~~
39 ~~disclosures and specifications required by Section 54954.5.~~
40 *In the case of adjourned and continued meetings, the*

1 *statement shall be made with the same disclosures and*
2 *specifications required by Section 54954.5 as part of the*
3 *notice provided for the meeting. Nothing in this section*
4 *shall require or authorize a disclosure of information*
5 *prohibited by state or federal law.*

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

10 (c) *Convening of an open session solely for the*
11 *purpose of making the announcements required in this*
12 *section shall not constitute a special meeting where the*
13 *open session at which regular business is transacted*
14 *occurs at the time and place otherwise provided by the*
15 *legislative body's ordinance, resolution, by-laws, or other*
16 *rules adopted pursuant to Section 54954.*

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

22 SEC. 22. Section 54959 of the Government Code is
23 amended to read:

24 54959. Each member of a legislative body who attends
25 a meeting of ~~such~~ that legislative body where action is
26 taken in violation of any provision of this chapter, with
27 ~~knowledge of the fact that the meeting is in violation~~
28 ~~thereof~~ *intent to deprive the public of information to*
29 *which it is entitled under this chapter, is guilty of a*
30 *misdemeanor.*

31 SEC. 23. Section 54960 of the Government Code is
32 amended to read:

33 54960. ~~Any~~ *The district attorney or any interested*
34 *person may commence an action by mandamus,*
35 *injunction or declaratory relief for the purpose of*
36 *stopping or preventing violations or threatened*
37 *violations of this chapter by members of the legislative*
38 *body of a local agency or to determine the applicability*
39 *of this chapter to actions or threatened future action of*
40 *the legislative body, or to determine the validity under*

1 *the laws of this state or of the United States of any rule*
2 *or action by the legislative body to penalize or otherwise*
3 *discourage the expression of one or more of its members,*
4 *or to compel the legislative body to tape record its closed*
5 *sessions as hereinafter provided.*

6 (b) *The court in its discretion may order the*
7 *legislative body to tape record its closed sessions and*
8 *preserve the tape recordings for the period and under*
9 *the terms of security and confidentiality the court deems*
10 *appropriate to the circumstances established in the*
11 *record.*

12 (c) *The court may enter the order upon a*
13 *determination of an actual violation of this chapter or*
14 *upon a determination that, under the totality of the*
15 *circumstances, tape recording is necessary to restore*
16 *public confidence in the legislative body's compliance*
17 *with this chapter, to provide for more effective*
18 *enforcement thereof, or to deter violations thereof.*

19 SEC. 24. Section 54960.1 of the Government Code is
20 amended to read:

21 54960.1. (a) ~~Any~~ *The district attorney or any*
22 *interested person may commence an action by*
23 *mandamus or injunction for the purpose of obtaining a*
24 *judicial determination that an action taken by a*
25 *legislative body of a local agency in violation of Section*
26 *54953, 54954.2, 54954.5, 54954.6, or 54956 is null and void*
27 *under this section. Nothing in this chapter shall be*
28 *construed to prevent a legislative body from curing or*
29 *correcting an action challenged pursuant to this section.*

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

38 *The written demand shall be made within ~~30~~ 90 days*
39 *from the date the action was taken unless the action was*
40 *taken in an open session but in violation of Section*

1 54954.2, in which case the written demand shall be made
2 within 30 days from the date the action was taken. Within
3 30 days of receipt of the demand, the legislative body
4 shall cure or correct the challenged action and inform the
5 demanding party in writing of its actions to cure or
6 correct or inform the demanding party in writing of its
7 decision not to cure or correct the challenged action. If
8 the legislative body takes no action within the 30-day
9 period, the inaction shall be deemed a decision not to
10 cure or correct the challenged action, and the 15-day
11 period to commence the action described in subdivision
12 (a) shall commence to run the day after the 30-day period
13 to cure or correct expires. Within 15 days of receipt of the
14 written notice of the legislative body's decision to cure or
15 correct, *or not to cure or correct, or within 15 days of the*
16 *expiration of the 30-day period to cure or correct, or not*
17 *to cure or correct, within 15 days of or within 75 days from*
18 *the date the challenged action was taken,* whichever is
19 earlier, the demanding party shall be required to
20 commence the action pursuant to subdivision (a) or
21 thereafter be barred from commencing the action.

22 (c) An action taken that is alleged to have been taken
23 in violation of Sections 54953, 54954.2, 54954.5, 54954.6,
24 and 54956 shall not be determined to be null and void if
25 any of the following conditions exist:

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

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

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

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

40 (d) During any action seeking a judicial

1 determination pursuant to subdivision (a) if the court
2 determines, pursuant to a showing by the legislative body
3 that an action alleged to have been taken in violation of
4 Section 54953, 54954.2, 54954.5, 54954.6, or 54956 has been
5 cured or corrected by a subsequent action of the
6 legislative body, the action filed pursuant to subdivision
7 (a) shall be dismissed with prejudice.

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

12 SEC. 25. Section 54961 of the Government Code is
13 amended to read:

14 54961. No *legislative body of a local agency* shall
15 conduct any meeting; ~~conference; or other function~~ in
16 any facility that prohibits the admittance of any person,
17 or persons, on the basis of race, religious creed, color,
18 national origin, ancestry, or sex, *or which is inaccessible*
19 *to disabled persons, or where members of the public may*
20 *not be present without making a payment or purchase.*
21 This section shall apply to every local agency as defined
22 in Section 54951, 54951.1, or 54951.7.

23 SEC. 26. No reimbursement is required by this act
24 pursuant to Section 6 of Article XIII B of the California
25 Constitution because the only costs which may be
26 incurred by a local agency or school district will be
27 incurred because this act creates a new crime or
28 infraction, changes the definition of a crime or infraction,
29 changes the penalty for a crime or infraction, or
30 eliminates a crime or infraction.

31 However, notwithstanding Section 17160 of the
32 Government Code, if the Commission on State Mandates
33 determines that this act contains costs mandated by the
34 state, reimbursement to local agencies and school
35 districts for those costs shall be made pursuant to Part 7
36 (commencing with Section 17500) of Division 4 of Title
37 2 of the Government Code. If the statewide costs of the
38 claim for reimbursement does not exceed one million
39 dollars (\$1,000,000), reimbursement shall be made from
40 the State Mandates Claims Fund.

1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified in this act, the provisions
3 of this act shall become operative on the same date that
4 the act takes effect pursuant to the California
5 Constitution.

6 SEC. 27. This act is an urgency statute necessary for
7 the immediate preservation of the public peace, health,
8 or safety within the meaning of Article IV of the
9 Constitution and shall go into immediate effect. The facts
10 constituting the necessity are:

11 In order to provide the people of the State of California
12 with better information regarding meetings of local
13 legislative bodies, to enhance public participation in local
14 decisionmaking, and to strengthen the open meeting law
15 for local agencies at the earliest possible time, it is
16 necessary that this act take effect immediately.

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