

CASE No. S260209

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA**

MICHAEL GOMEZ DALY et al.,
Petitioners (in superior court) and Respondents (on appeal),

v.

BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY, et al.,
Respondents and Real Party in Interest (in superior court) and Appellants,

After Order by the Court of Appeal
Fourth Appellate District, Division Two
Civil No. E073730

EXHIBITS TO APPELLANTS' MOTION FOR JUDICIAL NOTICE

VOLUME I OF VI, PAGES 1 – 295 OF 1653

MEYERS, NAVE, RIBACK, SILVER &
WILSON

Deborah J. Fox (SBN: 110929)*

dfox@meyersnave.com

T. Steven Burke, Jr. (SBN: 247049)

tsburke@meyersnave.com

Matthew B. Nazareth (SBN: 278405)

mnazareth@meyersnave.com

707 Wilshire Blvd., 24th Floor

Los Angeles, California 90017

Telephone: (213) 626-2906

Attorneys for Respondents/Real Party in
Interest/Appellants

MCDERMOTT WILL & EMERY LLP

William P. Donovan, Jr. (SBN: 155881)*

wdonovan@mwe.com

Jason D. Strabo (SBN: 246426)

jstrabo@mwe.com

2049 Century Park East, Suite 3200

Los Angeles, CA 90067-3206

Telephone: (310) 788-4121

Attorneys for Real Party in Interest/Appellant

Michelle D. Blakemore, County Counsel
(SBN: 110474)
Penny Alexander-Kelley, Chief Assistant
County Counsel (SBN: 145129)
Office of County Counsel
County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, California 92415
Telephone: (909) 387-5455
Facsimile: (909) 387-5462

Attorneys for Respondents/Real Party in
Interest/Appellants

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EXHIBIT A



LEGISLATIVE INTENT SERVICE, INC.

712 Main Street, Suite 200, Woodland, CA 95695
(800) 666-1917 • Fax (530) 668-5866 • www.legintent.com

DECLARATION OF ANNA MARIA BERECZKY-ANDERSON

I, Anna Maria Bereczky-Anderson, declare:

I am an attorney licensed to practice in California, State Bar No. 227794, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain documents relevant to the enactment of Assembly Bill 2674 of 1986. The documents listed below were obtained through Legislative Intent Service, Inc.'s online quick purchase service of previously-compiled legislative histories. Assembly Bill 2674 was approved by the Legislature and was enacted as Chapter 641 of the Statutes of 1986.

The following list identifies all documents purchased on February 24, 2020, through Legislative Intent Service, Inc.'s online quick purchase service of compiled legislative histories, on Assembly Bill 2674 of 1986. All documents listed in this Declaration are true and correct copies of the originals gathered by Legislative Intent Service, Inc.

ASSEMBLY BILL 2674 OF 1986:

1. All versions of Assembly Bill 2674 (Connelly-1986);
 2. Procedural history of Assembly Bill 2674 from the 1985-86 *Assembly Final History*;
 3. Two analyses of Assembly Bill 2674 prepared for the Assembly Committee on Local Government;
 4. Material from the legislative bill file of the Assembly Committee on Local Government on Assembly Bill 2674 as follows:
 - a. Previously Obtained Material,
 - b. Updated Collection of Material;
- +

5. Analysis of Assembly Bill 2674 prepared for the Assembly Committee on Ways and Means;
6. Material from the legislative bill file of the Assembly Committee on Ways and Means on Assembly Bill 2674 as follows:
 - a. Previously Obtained Material,
 - b. Updated Collection of Material;
- + 7. Material from the legislative bill file of the Assembly Committee on Ways and Means Minority on Assembly Bill 2674;
8. Third Reading analysis of Assembly Bill 2674 prepared by the Assembly Committee on Local Government;
9. Material from the legislative bill file of the Assembly Republican Caucus on Assembly Bill 2674 as follows:
 - a. Previously Obtained Material,
 - b. Updated Collection of Material;
- + 10. Two analyses of Assembly Bill 2674 prepared for the Senate Committee on Local Government;
11. Material from the legislative bill file of the Senate Committee on Local Government on Assembly Bill 2674 as follows:
 - a. Previously Obtained Material,
 - b. Updated Collection of Material;
- + 12. Two analyses of Assembly Bill 2674 prepared by the Legislative Analyst;
13. Material from the legislative bill file of the Senate Committee on Appropriations on Assembly Bill 2674 as follows:
 - a. Previously Obtained Material,
 - b. Updated Collection of Material;
- + 14. Third Reading analysis of Assembly Bill 2674 prepared by the Office of Senate Floor Analyses;
15. Material from the legislative bill file of the Office of Senate Floor Analyses on Assembly Bill 2674;
16. Legislative Counsel's Rule 26.5 analysis of Assembly Bill 2674;
17. Two Concurrence in Senate Amendments analyses of Assembly Bill 2674 prepared by the Assembly Committee on Local Government;
18. Material from the legislative bill file of Assemblymember Lloyd Connelly on Assembly Bill 2674 as follows:
 - a. Previously Obtained Material,
 - b. Updated Collection of Material;
- + 19. Excerpt regarding Assembly Bill 2674 from the *Journal of the Senate*, July 3, 1986;

20. Post-enrollment documents regarding Assembly Bill 2674 as follows:
 - a. Previously Obtained Material,
 - b. Updated Collection of Material;
- + 21. Press Release #691 issued by the Office of the Governor on September 2, 1986, to announce that Assembly Bill 2674 had been signed;
22. Material from the legislative bill file of the Department of Justice on Assembly Bill 2674;
23. "Open Meeting Laws," a publication prepared by the California Department of Justice, December 1984.

+ Because it is not unusual for more materials to become publicly available after our earlier research of legislation, we re-gathered these file materials, denoting them as "updated collection of material."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 11th day of September, 2020 at Woodland, California.

Anna Maria Bereczky-Anderson

ANNA MARIA BEREZKY-ANDERSON

EXHIBIT B

ASSEMBLY BILL

No. 2674

**Introduced by Assembly Member Connelly
(Principal coauthor: Assembly Member Johnson)
(Coauthor: Senator Marks)**

January 15, 1986

An act to amend Sections 54956.5, 54957.7, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, as introduced, Connelly. Open meetings: local agencies.

(1) Existing law, known as the Ralph M. Brown Act, requires that actions of legislative bodies of local agencies be taken openly and that their deliberations be conducted openly. Under this existing law, the legislative body of a local agency is not required to post a specific agenda of the items of business to be transacted or discussed at a regular or special meeting. Additionally, existing law does not prohibit any action to be taken, as defined, on any item not appearing on the posted agenda.

This bill would make this requirement and prohibition, as specified. It would make other conforming changes. The requirement would impose a state-mandated local program.

(2) The Ralph M. Brown Act does not require the legislative bodies of local agencies to adopt reasonable regulations to ensure that members of the public are able to place matters directly related to the business of the legislative body on the agenda of legislative body meetings and to ensure that members of the public are able to address the legislative body regarding items on the agenda as the items are taken up.

This bill would make this requirement and would, thus,

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impose a state-mandated local program.

(3) The Ralph M. Brown Act, among other things, requires the legislative body of a local agency, prior to or after holding any closed session, to state the general reason or reasons for the closed session and permits the legislative body to cite the statutory authority or other legal authority under which the session is being held.

This bill would require the statement prior to holding the closed session and would require the statutory authority or other legal authority for the session to be cited, as specified. It would make other clarifying changes.

(4) Existing law defines the term "action taken" and prescribes misdemeanor sanctions for each member of a legislative body who knowingly attends a meeting of the legislative body where action is taken in violation of the Ralph M. Brown Act. Existing law also authorizes any interested person to commence an action by mandamus, injunction, or declaratory relief to stop or prevent violations or threatened violations of statutory provisions relating to open meetings of local agencies or to determine the application of those provisions.

Under existing law, as construed by the courts, any action taken at a meeting in violation of the Ralph M. Brown Act is nonetheless valid.

This bill would make certain actions taken by a legislative body of a local agency null and void. This bill would authorize any interested person to commence an action by mandamus, injunction, or declaratory relief to determine if certain actions taken by the local agency are null and void, within 30 days of the action taken by the local agency.

(5) Existing law authorizes a court to award reasonable attorneys' fee to a plaintiff where it is found the local agency has violated provisions of law relating to open meetings, or to a prevailing defendant in cases in which the court finds the action was clearly frivolous and totally lacking in merit.

This bill would authorize the award of reasonable attorneys' fees in actions to determine null and void the actions of a local agency as described in (4) above.

(6) 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 costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

Vote: majority. 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 54954.2 is added to the
2 Government Code, to read:

3 54954.2. The legislative body of a local agency shall, at
4 least 72 hours prior to the time of a regular meeting and
5 24 hours prior to a special meeting, post a specific agenda
6 of the items of business to be transacted or discussed at
7 the regular or special meeting. No action shall be taken
8 on any item not appearing on the posted agenda, nor shall
9 any item be added to the agenda subsequent to the
10 agenda being posted. The agenda shall be posted in a
11 location where members of the public, including
12 employees of the legislative body, may freely view the
13 agenda and shall clearly specify the time and location of
14 the meeting.

15 The requirements of this section as applied to special
16 meetings are in addition to all other requirements of law
17 pertaining to special meetings and are not intended to
18 relieve legislative bodies of other requirements under
19 law, including, but not limited to, those imposed by
20 Section 54956.

21 SEC. 2. Section 54954.3 is added to the Government
22 Code, to read:

23 54954.3. (a) It is the intent of the Legislature that
24 members of the public be able to place matters directly
25 related to the business of the legislative body on the



1 agenda of legislative body meetings, and that members of
2 the public be able to address the legislative body
3 regarding items on the agenda as the items are taken up.

4 (b) The legislative body of a local agency shall adopt
5 reasonable regulations to ensure that the intent of
6 subdivision (a) is carried out. The regulations may
7 specify reasonable procedures to ensure the proper
8 functioning of the meetings.

9 Neither this subdivision nor Section 54954.2 shall
10 preclude the taking of testimony at regularly scheduled
11 meetings on matters not on the agenda which any
12 member of the public may wish to bring before the
13 legislative body of the local agency, as long as no action
14 is taken by the legislative body on these matters at the
15 same meeting at which the testimony is taken.

16 Nothing in this subdivision shall be deemed to limit
17 further discussion on the same subject matter at a
18 subsequent meeting.

19 SEC. 3. Section 54956.5 of the Government Code is
20 amended to read:

21 54956.5. In the case of an emergency situation
22 involving matters upon which prompt action is necessary
23 due to the disruption or threatened disruption of public
24 facilities, a legislative body may hold an emergency
25 meeting without complying with the 24-hour notice
26 requirement of Section 54956 or the 24-hour posting
27 requirement of Section 54954.2.

28 For purposes of this section, "emergency situation"
29 means any of the following:

30 (a) Work stoppage or other activity which severely
31 impairs public health, safety, or both, as determined by
32 a majority of the members of the legislative body.

33 (b) Crippling disaster which severely impairs public
34 health, safety, or both, as determined by a majority of the
35 members of the legislative body.

36 However, each local newspaper of general circulation
37 and radio or television station which has requested notice
38 of special meetings pursuant to Section 54956 shall be
39 notified by the presiding officer of the legislative body, or
40 designee thereof, one hour prior to the emergency

1 meeting by telephone and shall exhaust all telephone
2 numbers provided in the most recent request of such
3 newspaper or station for notification of special meetings.

4 In the event that telephone services are not functioning,
5 the notice requirements of this section shall be deemed
6 waived, and the legislative body, or designee thereof of
7 the legislative body, shall notify such the newspapers,
8 radio stations, or television stations of the fact of the
9 holding of the special meeting, the purpose of the
10 meeting, and any action taken at the meeting as soon
11 after the meeting as possible.

12 Notwithstanding the provisions of Section 54957, the
13 legislative body shall not meet in closed session during a
14 meeting called pursuant to this section.

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

19 The minutes of a meeting called pursuant to this
20 section, a list of persons who the presiding officer of the
21 legislative body, or designee thereof of the legislative
22 body, notified or attempted to notify, a copy of the rollcall
23 vote, and any actions taken at such the meeting shall be
24 posted for a minimum of 10 days in a public place as soon
25 after the meeting as possible.

26 SEC. 4. Section 54957.7 of the Government Code is
27 amended to read:

28 54957.7. Prior to ~~or after~~ holding any closed session,
29 the legislative body of the local agency shall state the
30 general reason or reasons for the closed session, and ~~may~~
31 shall cite the statutory authority, including the specific
32 section and subdivision, or other legal authority under
33 which the session is being held. In the closed session, the
34 legislative body may consider only those matters covered
35 in its statement. In the case of ~~special~~, closed session held
36 after adjourned ; and continued meetings, the statement
37 shall be made as part of the notice provided for the
38 ~~special~~, adjourned ; or continued meeting. If the closed
39 session is held as a regular or special meeting, the
40 statement shall be included on the agenda required to be

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1 *posted by Section 54954.2.* Nothing in this section shall
2 require or authorize the giving of names or other
3 information which would constitute an invasion of
4 privacy or otherwise unnecessarily divulge the particular
5 facts concerning the closed session.

6 SEC. 5. Section 54960.1 is added to the Government
7 Code, to read:

8 54960.1. (a) Any action taken by a legislative body of
9 a local agency in violation of Section 54953 or 54954.2 is
10 null and void.

11 (b) Any interested person may commence an action
12 by mandamus, injunction, or declaratory relief for the
13 purpose of obtaining a judicial declaration that an action
14 taken in violation of subdivision (a) is null and void. Any
15 action seeking such a judicial determination shall be
16 commenced within 30 days from the date the action was
17 taken.

18 (c) This section shall not be construed to prevent a
19 legislative body from curing or correcting an action
20 challenged pursuant to this section.

21 (d) An action taken shall not be determined to be null
22 and void if it was in substantial compliance with Sections
23 54953 and 54954.2.

24 SEC. 6. Section 54960.5 of the Government Code is
25 amended to read:

26 54960.5. A court may award court costs and
27 reasonable attorney fees to the plaintiff in an action
28 brought pursuant to Section 54960 or 54960.1 where it is
29 found that a legislative body of the local agency has
30 violated ~~the provisions of this article.~~ *Such* The costs and
31 fees shall be paid by the local agency and shall not
32 become a personal liability of any public officer or
33 employee ~~thereof~~ *of the local agency.*

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

40 SEC. 7. Reimbursement to local agencies and school

1 districts for costs mandated by the state pursuant to this
2 act shall be made pursuant to Part 7 (commencing with
3 Section 17500) of Division 4 of Title 2 of the Government
4 Code and, if the statewide cost of the claim for
5 reimbursement does not exceed five hundred thousand
6 dollars (\$500,000), shall be made from the State Mandates
7 Claims Fund.

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AMENDED IN ASSEMBLY MARCH 3, 1986

CALIFORNIA LEGISLATURE—1985-86 REGULAR SESSION

ASSEMBLY BILL

No. 2674

Introduced by Assembly Member Connelly
(Principal coauthor: Assembly Member Johnson)
(Coauthor: Senator Marks)

January 15, 1986

An act to amend Sections ~~54956.5~~, ~~54957.7~~, 54956, 54956.5, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, as amended, Connelly. Open meetings: local agencies.

(1) Existing law, known as the Ralph M. Brown Act, requires that actions of legislative bodies of local agencies be taken openly and that their deliberations be conducted openly. Under this existing law, the legislative body of a local agency is not required to post a specific agenda of the items of business to be transacted or discussed at a regular or special meeting. Additionally, existing law does not prohibit any action to be taken, as defined, on any item not appearing on the posted agenda.

This bill would make this requirement and prohibition, *with certain exceptions*, as specified. ~~It would make other conforming changes.~~ The requirement would impose a state-mandated local program.

(2) The Ralph M. Brown Act does not require the legislative bodies of local agencies to adopt reasonable regulations to ensure that members of the public are able to place matters directly related to the business of the legislative body on the agenda of legislative body meetings and to ensure

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that members of the public are able to address the legislative body regarding items on the agenda as the items are taken up. ~~that every agenda for regular meetings provide an opportunity for members of the public to directly address the legislative body on items of interest to the public.~~

This bill would make this requirement and would; ~~thus, require the legislative body to adopt reasonable regulations, as specified. These new requirements would impose a state-mandated local program.~~

(3) ~~The Ralph M. Brown Act, among other things, requires the legislative body of a local agency, prior to or after holding any closed session, to state the general reason or reasons for the closed session and permits the legislative body to cite the statutory authority or other legal authority under which the session is being held.~~

~~This bill would require the statement prior to holding the closed session and would require the statutory authority or other legal authority for the session to be cited, as specified. It would make other clarifying changes. The Ralph M. Brown Act requires a specified notice of special meetings. This bill would in addition require a specified posting and make a conforming change.~~

(4) Existing law defines the term "action taken" and prescribes misdemeanor sanctions for each member of a legislative body who knowingly attends a meeting of the legislative body where action is taken in violation of the Ralph M. Brown Act. Existing law also authorizes any interested person to commence an action by mandamus, injunction, or declaratory relief to stop or prevent violations or threatened violations of statutory provisions relating to open meetings of local agencies or to determine the application of those provisions.

Under existing law, as construed by the courts, any action taken at a meeting in violation of the Ralph M. Brown Act is nonetheless valid.

~~This bill would make certain actions taken by a legislative body of a local agency null and void.~~

This bill would authorize any interested person to commence an action by mandamus, injunction, or declaratory relief to determine if certain actions taken by the local agency

are null and void, within 30 days of the action taken by the local agency, as specified.

(5) Existing law authorizes a court to award reasonable attorneys' fee to a plaintiff where it is found the local agency has violated provisions of law relating to open meetings, or to a prevailing defendant in cases in which the court finds the action was clearly frivolous and totally lacking in merit.

This bill would authorize the award of reasonable attorneys' fees in actions to determine null and void the actions of a local agency as described in (4) above.

(6) 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 costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

Vote: majority. 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 54954.2 is added to the
- 2 Government Code, to read:
- 3 ~~54954.2.~~ The legislative body of a local agency shall, at
- 4 least 72 hours prior to the time of a regular meeting and
- 5 ~~24~~ hours prior to a special meeting, post a specific agenda
- 6 of the items of business to be transacted or discussed at
- 7 the regular or special meeting. No action shall be taken
- 8 on any item not appearing on the posted agenda, nor shall
- 9 any item be added to the agenda subsequent to the
- 10 agenda being posted. The agenda shall be posted in a
- 11 location where members of the public, including
- 12 employees of the legislative body, may freely view the
- 13 agenda and shall clearly specify the time and location of

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1 the meeting.

2 The requirements of this section as applied to special
3 meetings are in addition to all other requirements of law
4 pertaining to special meetings and are not intended to
5 relieve legislative bodies of other requirements under
6 law, including, but not limited to, those imposed by
7 Section 54956.

8 54954.2. (a) At least 72 hours before a regular
9 meeting, the legislative body of the local agency, or its
10 designee, shall post a specific agenda of the items of
11 business to be transacted or discussed at the meeting. The
12 agenda shall specify the time and location of the regular
13 meeting and shall be posted in a location that is freely
14 accessible to members of the public and employees of the
15 local agency. No action shall be taken on any item not
16 appearing on the posted agenda.

17 (b) Notwithstanding subdivision (a), the legislative
18 body may take action on items of business not appearing
19 on the posted agenda under either of the following
20 conditions:

21 (1) Upon a formal written finding by a majority vote
22 of the legislative body that an emergency situation exists,
23 as defined in Section 54956.5.

24 (2) Upon a formal written finding by a two-thirds vote
25 of the legislative body that failure to take action will
26 result in serious harm to the public and that the need to
27 take action arose suddenly and unexpectedly and
28 subsequent to the agenda being posted as specified in
29 subdivision (a).

30 SEC. 2. Section 54954.3 is added to the Government
31 Code, to read:

32 54954.3. (a) It is the intent of the Legislature that
33 members of the public be able to place matters directly
34 related to the business of the legislative body on the
35 agenda of legislative body meetings, and that members of
36 the public be able to address the legislative body
37 regarding items on the agenda as the items are taken up.

38 (b) The legislative body of a local agency shall adopt
39 reasonable regulations to ensure that the intent of
40 subdivision (a) is carried out. The regulations may

1 specify reasonable procedures to ensure the proper
2 functioning of the meetings.

3 Neither this subdivision nor Section 54954.2 shall
4 preclude the taking of testimony at regularly scheduled
5 meetings on matters not on the agenda which any
6 member of the public may wish to bring before the
7 legislative body of the local agency, as long as no action
8 is taken by the legislative body on these matters at the
9 same meeting at which the testimony is taken.

10 Nothing in this subdivision shall be deemed to limit
11 further discussion on the same subject matter at a
12 subsequent meeting.

13 54954.3. (a) Every agenda for regular meetings shall
14 provide an opportunity for members of the public to
15 directly address the legislative body on items of interest
16 to the public, provided that no action shall be taken on
17 any item not appearing on the agenda unless the action
18 is otherwise authorized by subdivision (b) of Section
19 54954.2.

20 (b) The legislative body of a local agency shall adopt
21 reasonable regulations to ensure that the intent of
22 subdivision (a) is carried out.

23 SEC. 2.5. Section 54956 of the Government Code is
24 amended to read:

25 54956. A special meeting may be called at any time by
26 the presiding officer of the legislative body of a local
27 agency, or by a majority of the members of the legislative
28 body, by delivering personally or by mail written notice
29 to each member of the legislative body and to each local
30 newspaper of general circulation, radio or television
31 station requesting notice in writing. Such The notice
32 shall be delivered personally or by mail and shall be
33 received at least 24 hours before the time of such the
34 meeting as specified in the notice. The call and notice
35 shall specify the time and place of the special meeting
36 and the business to be transacted. No other business shall
37 be considered at such these meetings by the legislative
38 body. Such The written notice may be dispensed with as
39 to any member who at or prior to the time the meeting
40 convenes files with the clerk or secretary of the

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1 legislative body a written waiver of notice. ~~Such~~ *The*
 2 waiver may be given by telegram. ~~Such~~ *The* written
 3 notice may also be dispensed with as to any member who
 4 is actually present at the meeting at the time it convenes.
 5 Notice shall be required pursuant to this section
 6 regardless of whether any action is taken at the special
 7 meeting.

8 *The call and notice shall be posted at least 24 hours*
 9 *prior to the special meeting and shall specify the time and*
 10 *location of the meeting and be posted in a location that*
 11 *is freely accessible to members of the public and*
 12 *employees of the local agency.*

13 SEC. 3. Section 54956.5 of the Government Code is
 14 amended to read:

15 54956.5. In the case of an emergency situation
 16 involving matters upon which prompt action is necessary
 17 due to the disruption or threatened disruption of public
 18 facilities, a legislative body may hold an emergency
 19 meeting without complying with ~~the 24-hour notice~~
 20 ~~requirement of Section 54956 or the 24-hour posting~~
 21 ~~requirement of Section 54954.2. either the 24-hour notice~~
 22 ~~requirement or the 24-hour posting requirement of~~
 23 ~~Section 54956 or both of the notice and posting~~
 24 ~~requirements.~~

25 For purposes of this section, "emergency situation"
 26 means any of the following:

27 (a) Work stoppage or other activity which severely
 28 impairs public health, safety, or both, as determined by
 29 a majority of the members of the legislative body.

30 (b) Crippling disaster which severely impairs public
 31 health, safety, or both, as determined by a majority of the
 32 members of the legislative body.

33 However, each local newspaper of general circulation
 34 and radio or television station which has requested notice
 35 of special meetings pursuant to Section 54956 shall be
 36 notified by the presiding officer of the legislative body, or
 37 designee thereof, one hour prior to the emergency
 38 meeting by telephone and shall exhaust all telephone
 39 numbers provided in the most recent request of such
 40 newspaper or station for notification of special meetings.

1 In the event that telephone services are not functioning,
 2 the notice requirements of this section shall be deemed
 3 waived, and the legislative body, or designee of the
 4 legislative body, shall notify the newspapers, radio
 5 stations, or television stations of the fact of the holding of
 6 the special meeting, the purpose of the meeting, and any
 7 action taken at the meeting as soon after the meeting as
 8 possible.

9 Notwithstanding Section 54957, the legislative body
 10 shall not meet in closed session during a meeting called
 11 pursuant to this section.

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

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

23 SEC. 4. Section 54957.7 of the Government Code is
 24 amended to read:

25 54957.7. Prior to holding any closed session, the
 26 legislative body of the local agency shall state the general
 27 reason or reasons for the closed session, and shall cite the
 28 statutory authority, including the specific section and
 29 subdivision, or other legal authority under which the
 30 session is being held. In the closed session, the legislative
 31 body may consider only those matters covered in its
 32 statement. In the case of closed session held after
 33 adjourned and continued meetings, the statement shall
 34 be made as part of the notice provided for the adjourned
 35 or continued meeting. If the closed session is held as a
 36 regular or special meeting, the statement shall be
 37 included on the agenda required to be posted by Section
 38 54954.2. Nothing in this section shall require or authorize
 39 the giving of names or other information which would
 40 constitute an invasion of privacy or otherwise

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1 unnecessarily divulge the particular facts concerning the
2 closed session.

3 SEC. 5. Section 54960.1 is added to the Government
4 Code, to read:

5 54960.1. (a) Any action taken by a legislative body of
6 a local agency in violation of Section 54953 or 54954.2 is
7 null and void.

8 (b) Any interested person may commence an action
9 by mandamus, injunction, or declaratory relief for the
10 purpose of obtaining a judicial declaration that an action
11 taken in violation of subdivision (a) is null and void. Any
12 action seeking such a judicial determination shall be
13 commenced within 30 days from the date the action was
14 taken.

15 (c) This section shall not be construed to prevent a
16 legislative body from curing or correcting an action
17 challenged pursuant to this section.

18 (d) An action taken shall not be determined to be null
19 and void if it was in substantial compliance with Sections
20 54953 and 54954.2.

21 SEC. 6.

22 SEC. 4. Section 54960.1 is added to the Government
23 Code, to read:

24 54960.1. (a) Any interested person may commence
25 an action by mandamus, injunction, or declaratory relief
26 for the purpose of obtaining a judicial determination that
27 an action taken by a legislative body of a local agency in
28 violation of Section 54953, 54954.2, or 54956 is null and
29 void under this section. Any action seeking such a judicial
30 determination shall be commenced within 30 days from
31 the date the action was taken. Nothing in this chapter
32 shall be construed to prevent a legislative body from
33 curing or correcting an action challenged pursuant to this
34 section.

35 (b) An action taken shall not be determined to be null
36 and void if any of the following conditions exist:

37 (1) The action taken was in substantial compliance
38 with Sections 54953, 54954.2, and 54956.

39 (2) The action taken was in connection with the sale
40 or issuance of notes, bonds, or other evidences of

1 indebtedness or any contract, instrument, or agreement
2 thereto.

3 (3) The action taken gave rise to a contractual
4 obligation upon which a party has, in good faith,
5 detrimentally relied.

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

8 SEC. 5. Section 54960.5 of the Government Code is
9 amended to read:

10 54960.5. A court may award court costs and
11 reasonable attorney fees to the plaintiff in an action
12 brought pursuant to Section 54960 or 54960.1 where it is
13 found that a legislative body of the local agency has
14 violated this article. The costs and fees shall be paid by
15 the local agency and shall not become a personal liability
16 of any public officer or employee of the local agency.

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

23 SEC. 7.

24 SEC. 6. Reimbursement to local agencies and school
25 districts for costs mandated by the state pursuant to this
26 act shall be made pursuant to Part 7 (commencing with
27 Section 17500) of Division 4 of Title 2 of the Government
28 Code and, if the statewide cost of the claim for
29 reimbursement does not exceed five hundred thousand
30 dollars (\$500,000), shall be made from the State Mandates
31 Claims Fund.

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AMENDED IN ASSEMBLY MARCH 10, 1986

AMENDED IN ASSEMBLY MARCH 3, 1986

CALIFORNIA LEGISLATURE—1985-86 REGULAR SESSION

ASSEMBLY BILL

No. 2674

**Introduced by Assembly Member Connelly
(Principal coauthor: Assembly Member Johnson)
(Coauthor: Senator Marks)**

January 15, 1986

An act to amend Sections 54956, 54956.5, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, as amended, Connelly. Open meetings: local agencies.

(1) Existing law, known as the Ralph M. Brown Act, requires that actions of legislative bodies of local agencies be taken openly and that their deliberations be conducted openly. Under this existing law, the legislative body of a local agency is not required to post a specific agenda of the items of business to be transacted or discussed at a regular meeting. Additionally, existing law does not prohibit any action to be taken, as defined, on any item not appearing on the posted agenda.

This bill would make this requirement and prohibition, with certain exceptions, as specified. The requirement would impose a state-mandated local program.

(2) The Ralph M. Brown Act does not require that every agenda for regular meetings provide an opportunity for members of the public to directly address the legislative body on items of interest to the public.

This bill would make this requirement and would require



permit the legislative body to adopt reasonable regulations, as specified. ~~These~~ *This new requirements requirement* would impose a state-mandated local program.

(3) The Ralph M. Brown Act requires a specified notice of special meetings. This bill would in addition require a specified posting and make a conforming change.

(4) Existing law defines the term "action taken" and prescribes misdemeanor sanctions for each member of a legislative body who knowingly attends a meeting of the legislative body where action is taken in violation of the Ralph M. Brown Act. Existing law also authorizes any interested person to commence an action by mandamus, injunction, or declaratory relief to stop or prevent violations or threatened violations of statutory provisions relating to open meetings of local agencies or to determine the application of those provisions.

Under existing law, as construed by the courts, any action taken at a meeting in violation of the Ralph M. Brown Act is nonetheless valid.

This bill would authorize any interested person to commence an action by mandamus; or injunction, ~~or declaratory relief~~ to determine if certain actions taken by the local agency are null and void, within 30 days of the action taken by the local agency, as specified.

(5) Existing law authorizes a court to award reasonable attorneys' fee to a plaintiff where it is found the local agency has violated provisions of law relating to open meetings, or to a prevailing defendant in cases in which the court finds the action was clearly frivolous and totally lacking in merit.

This bill would authorize the award of reasonable attorneys' fees in actions to determine null and void the actions of a local agency as described in (4) above.

(6) 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 costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs

mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

Vote: majority. 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 54954.2 is added to the
2 Government Code, to read:

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

12 (b) Notwithstanding subdivision (a), the legislative
13 body may take action on items of business not appearing
14 on the posted agenda under either of the following
15 conditions:

16 (1) Upon a ~~formal written~~ finding by a majority vote
17 of the legislative body that an emergency situation exists,
18 as defined in Section 54956.5.

19 (2) Upon a ~~formal written~~ finding by a two-thirds vote
20 of the legislative body that failure to take action will
21 result in serious harm to the public and that the need to
22 take action arose suddenly and unexpectedly and
23 subsequent to the agenda being posted as specified in
24 subdivision (a).

25 SEC. 2. Section 54954.3 is added to the Government
26 Code, to read:

27 54954.3. (a) Every agenda for regular meetings shall
28 provide an opportunity for members of the public to
29 directly address the legislative body on items of interest
30 to the public, provided that no action shall be taken on
31 any item not appearing on the agenda unless the action

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1 is otherwise authorized by subdivision (b) of Section
2 54954.2.

3 (b) The legislative body of a local agency ~~shall~~ may
4 adopt reasonable regulations to ensure that the intent of
5 subdivision (a) is carried out.

6 SEC. 2.5. Section 54956 of the Government Code is
7 amended to read:

8 54956. A special meeting may be called at any time by
9 the presiding officer of the legislative body of a local
10 agency, or by a majority of the members of the legislative
11 body, by delivering personally or by mail written notice
12 to each member of the legislative body and to each local
13 newspaper of general circulation, radio or television
14 station requesting notice in writing. The notice shall be
15 delivered personally or by mail and shall be received at
16 least 24 hours before the time of the meeting as specified
17 in the notice. The call and notice shall specify the time
18 and place of the special meeting and the business to be
19 transacted. No other business shall be considered at these
20 meetings by the legislative body. The written notice may
21 be dispensed with as to any member who at or prior to
22 the time the meeting convenes files with the clerk or
23 secretary of the legislative body a written waiver of
24 notice. The waiver may be given by telegram. The
25 written notice may also be dispensed with as to any
26 member who is actually present at the meeting at the
27 time it convenes. Notice shall be required pursuant to this
28 section regardless of whether any action is taken at the
29 special meeting.

30 The call and notice shall be posted at least 24 hours
31 prior to the special meeting and shall specify the time and
32 location of the meeting and be posted in a location that
33 is freely accessible to members of the public ~~and~~
34 ~~employees of the local agency.~~

35 SEC. 3. Section 54956.5 of the Government Code is
36 amended to read:

37 54956.5. In the case of an emergency situation
38 involving matters upon which prompt action is necessary
39 due to the disruption or threatened disruption of public
40 facilities, a legislative body may hold an emergency

1 meeting without complying with either the 24-hour
2 notice requirement or the 24-hour posting requirement
3 of Section 54956 or both of the notice and posting
4 requirements.

5 For purposes of this section, "emergency situation"
6 means any of the following:

7 (a) Work stoppage or other activity which severely
8 impairs public health, safety, or both, as determined by
9 a majority of the members of the legislative body.

10 (b) Crippling disaster which severely impairs public
11 health, safety, or both, as determined by a majority of the
12 members of the legislative body.

13 However, each local newspaper of general circulation
14 and radio or television station which has requested notice
15 of special meetings pursuant to Section 54956 shall be
16 notified by the presiding officer of the legislative body, or
17 designee thereof, one hour prior to the emergency
18 meeting by telephone and shall exhaust all telephone
19 numbers provided in the most recent request of such
20 newspaper or station for notification of special meetings.
21 In the event that telephone services are not functioning,
22 the notice requirements of this section shall be deemed
23 waived, and the legislative body, or designee of the
24 legislative body, shall notify ~~the~~ those newspapers, radio
25 stations, or television stations of the fact of the holding of
26 the special meeting, the purpose of the meeting, and any
27 action taken at the meeting as soon after the meeting as
28 possible.

29 Notwithstanding Section 54957, the legislative body
30 shall not meet in closed session during a meeting called
31 pursuant to this section.

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

36 The minutes of a meeting called pursuant to this
37 section, a list of persons who the presiding officer of the
38 legislative body, or designee of the legislative body,
39 notified or attempted to notify, a copy of the rollcall vote,
40 and any actions taken at the meeting shall be posted for

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1 a minimum of 10 days in a public place as soon after the
2 meeting as possible.

3 SEC. 4. Section 54960.1 is added to the Government
4 Code, to read:

5 54960.1. (a) Any interested person may commence
6 ~~an action by mandamus, injunction, or declaratory relief~~
7 *an action by mandamus or injunction* for the purpose of
8 obtaining a judicial determination that an action taken by
9 a legislative body of a local agency in violation of Section
10 54953, 54954.2, or 54956 is null and void under this section.
11 Any action seeking such a judicial determination shall be
12 commenced within 30 days from the date the action was
13 taken. Nothing in this chapter shall be construed to
14 prevent a legislative body from curing or correcting an
15 action challenged pursuant to this section.

16 (b) An action taken shall not be determined to be null
17 and void if any of the following conditions exist:

18 (1) The action taken was in substantial compliance
19 with Sections 54953, 54954.2, and 54956.

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

24 (3) The action taken gave rise to a contractual
25 obligation upon which a party has, in good faith,
26 detrimentally relied.

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

29 (c) *During any action seeking a judicial determination*
30 *pursuant to subdivision (a) if the court determines,*
31 *pursuant to a showing by the legislative body that an*
32 *action alleged to have been taken in violation of either*
33 *Section 54953, 54954.2, or 54956 has been cured or*
34 *corrected by a subsequent action of the legislative body,*
35 *the action filed pursuant to subdivision (a) shall be*
36 *dismissed with prejudice.*

37 SEC. 5. Section 54960.5 of the Government Code is
38 amended to read:

39 54960.5. A court may award court costs and
40 reasonable attorney fees to the plaintiff in an action

1 brought pursuant to Section 54960 or 54960.1 where it is
2 found that a legislative body of the local agency has
3 violated this article. The costs and fees shall be paid by
4 the local agency and shall not become a personal liability
5 of any public officer or employee of the local agency.

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

12 SEC. 6. Reimbursement to local agencies and school
13 districts for costs mandated by the state pursuant to this
14 act shall be made pursuant to Part 7 (commencing with
15 Section 17500) of Division 4 of Title 2 of the Government
16 Code and, if the statewide cost of the claim for
17 reimbursement does not exceed five hundred thousand
18 dollars (\$500,000), shall be made from the State Mandates
19 Claims Fund.

AMENDED IN ASSEMBLY MARCH 18, 1986
AMENDED IN ASSEMBLY MARCH 10, 1986
AMENDED IN ASSEMBLY MARCH 3, 1986

CALIFORNIA LEGISLATURE—1985-86 REGULAR SESSION

ASSEMBLY BILL

No. 2674

Introduced by Assembly Member Connelly
(Principal coauthor: Assembly Member Johnson)
(Coauthor: Senator Marks)

January 15, 1986

An act to amend Sections 54956, 54956.5, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, as amended, Connelly. Open meetings: local agencies.

(1) Existing law, known as the Ralph M. Brown Act, requires that actions of legislative bodies of local agencies be taken openly and that their deliberations be conducted openly. Under this existing law, the legislative body of a local agency is not required to post a specific agenda of *clearly describing* the items of business to be transacted or discussed at a regular meeting. Additionally, existing law does not prohibit any action to be taken, as defined, on any item not appearing on the posted agenda.

This bill would make this requirement and prohibition, with certain exceptions, as specified. The requirement would impose a state-mandated local program.

(2) The Ralph M. Brown Act does not require that every agenda for regular meetings provide an opportunity for members of the public to directly address the legislative body

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on items of interest to the public.

This bill would make this requirement and would require the legislative body to adopt reasonable regulations, as specified. These new requirements would impose a state-mandated local program.

(3) The Ralph M. Brown Act requires a specified notice of special meetings. This bill would in addition require a specified posting and make a conforming change.

(4) Existing law defines the term "action taken" and prescribes misdemeanor sanctions for each member of a legislative body who knowingly attends a meeting of the legislative body where action is taken in violation of the Ralph M. Brown Act. Existing law also authorizes any interested person to commence an action by mandamus, injunction, or declaratory relief to stop or prevent violations or threatened violations of statutory provisions relating to open meetings of local agencies or to determine the application of those provisions.

Under existing law, as construed by the courts, any action taken at a meeting in violation of the Ralph M. Brown Act is nonetheless valid.

This bill would authorize any interested person to commence an action by mandamus, injunction, or declaratory relief to determine if certain actions taken by the local agency are null and void ; ~~within 30 days of the action taken by the local agency,~~ as specified. *It would require the interested person to make a demand of the legislative body to cure or correct the action, as specified, before commencing the action. It would provide that the fact that a legislative body takes a subsequent action to cure or correct an action pursuant to this section shall not be construed as a violation of the Ralph M. Brown Act.*

(5) Existing law authorizes a court to award reasonable attorneys' fee to a plaintiff where it is found the local agency has violated provisions of law relating to open meetings, or to a prevailing defendant in cases in which the court finds the action was clearly frivolous and totally lacking in merit.

This bill would authorize the award of reasonable attorneys' fees in actions to determine null and void the actions of a local agency as described in (4) above.

(6) 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 costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

Vote: majority. 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 54954.2 is added to the
2 Government Code, to read:

3 54954.2. (a) At least 72 hours before a regular
4 meeting, the legislative body of the local agency, or its
5 designee, shall post a specific agenda *of clearly describing*
6 the items of business to be transacted or discussed at the
7 meeting. The agenda shall specify the time and location
8 of the regular meeting and shall be posted in a location
9 that is freely accessible to members of the public. No
10 action shall be taken on any item not appearing on the
11 posted agenda.

12 (b) Notwithstanding subdivision (a), the legislative
13 body may take action on items of business not appearing
14 on the posted agenda under either of the following
15 conditions:

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

19 (2) Upon a finding by a two-thirds vote of the
20 legislative body that ~~failure to take action will result in~~
21 ~~serious harm to the public and that the need to take~~
22 ~~action arose suddenly and unexpectedly~~ and subsequent
23 to the agenda being posted as specified in subdivision (a).

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1 SEC. 2. Section 54954.3 is added to the Government
2 Code, to read:

3 54954.3. (a) Every agenda for regular meetings shall
4 provide an opportunity for members of the public to
5 directly address the legislative body on items of interest
6 to the public, provided that no action shall be taken on
7 any item not appearing on the agenda unless the action
8 is otherwise authorized by subdivision (b) of Section
9 54954.2.

10 (b) The legislative body of a local agency may adopt
11 reasonable regulations to ensure that the intent of
12 subdivision (a) is carried out.

13 SEC. 2.5. Section 54956 of the Government Code is
14 amended to read:

15 54956. A special meeting may be called at any time by
16 the presiding officer of the legislative body of a local
17 agency, or by a majority of the members of the legislative
18 body, by delivering personally or by mail written notice
19 to each member of the legislative body and to each local
20 newspaper of general circulation, radio or television
21 station requesting notice in writing. The notice shall be
22 delivered personally or by mail and shall be received at
23 least 24 hours before the time of the meeting as specified
24 in the notice. The call and notice shall specify the time
25 and place of the special meeting and the business to be
26 transacted. No other business shall be considered at these
27 meetings by the legislative body. The written notice may
28 be dispensed with as to any member who at or prior to
29 the time the meeting convenes files with the clerk or
30 secretary of the legislative body a written waiver of
31 notice. The waiver may be given by telegram. The
32 written notice may also be dispensed with as to any
33 member who is actually present at the meeting at the
34 time it convenes. Notice shall be required pursuant to this
35 section regardless of whether any action is taken at the
36 special meeting.

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

1 SEC. 3. Section 54956.5 of the Government Code is
2 amended to read:

3 54956.5. In the case of an emergency situation
4 involving matters upon which prompt action is necessary
5 due to the disruption or threatened disruption of public
6 facilities, a legislative body may hold an emergency
7 meeting without complying with either the 24-hour
8 notice requirement or the 24-hour posting requirement
9 of Section 54956 or both of the notice and posting
10 requirements.

11 For purposes of this section, "emergency situation"
12 means any of the following:

13 (a) Work stoppage or other activity which severely
14 impairs public health, safety, or both, as determined by
15 a majority of the members of the legislative body.

16 (b) Crippling disaster which severely impairs public
17 health, safety, or both, as determined by a majority of the
18 members of the legislative body.

19 However, each local newspaper of general circulation
20 and radio or television station which has requested notice
21 of special meetings pursuant to Section 54956 shall be
22 notified by the presiding officer of the legislative body, or
23 designee thereof, one hour prior to the emergency
24 meeting by telephone and ~~shall exhaust~~ all telephone
25 numbers provided in the most recent request of such
26 newspaper or station for notification of special meetings
27 *shall be exhausted*. In the event that telephone services
28 are not functioning, the notice requirements of this
29 section shall be deemed waived, and the legislative body,
30 or designee of the legislative body, shall notify those
31 newspapers, radio stations, or television stations of the
32 fact of the holding of the special meeting, the purpose of
33 the meeting, and any action taken at the meeting as soon
34 after the meeting as possible.

35 Notwithstanding Section 54957, the legislative body
36 shall not meet in closed session during a meeting called
37 pursuant to this section.

38 All special meeting requirements, as prescribed in
39 Section 54956 shall be applicable to a meeting called
40 pursuant to this section, with the exception of the 24-hour



1 notice requirement.

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

9 SEC. 4. Section 54960.1 is added to the Government
10 Code, to read:

11 54960.1. (a) Any interested person may commence
12 an action by mandamus or injunction for the purpose of
13 obtaining a judicial determination that an action taken by
14 a legislative body of a local agency in violation of Section
15 54953, 54954.2, or 54956 is null and void under this section.
16 ~~Any action seeking such a judicial determination shall be~~
17 ~~commenced within 30 days from the date the action was~~
18 ~~taken.~~ Nothing in this chapter shall be construed to
19 prevent a legislative body from curing or correcting an
20 action challenged pursuant to this section.

21 (b) *Prior to any action being commenced pursuant to*
22 *subdivision (a), the interested person shall make a*
23 *demand of the legislative body to cure or correct the*
24 *action alleged to have been taken in violation of Section*
25 *54953, 54954.2, or 54956. The demand shall be in writing*
26 *and clearly describe the challenged action of the*
27 *legislative body and nature of the alleged violation. The*
28 *written demand shall be made within 30 days from the*
29 *date the action was taken. Within 15 days of receipt of the*
30 *demand, the legislative body shall cure or correct the*
31 *challenged action and inform the demanding party in*
32 *writing of its actions to cure or correct or inform the*
33 *demanding party in writing of its decision not to cure or*
34 *correct the challenged action. Within 15 days after*
35 *receipt of the written information of the legislative body*
36 *pursuant to the preceding sentence or 60 days from the*
37 *date the challenged action was taken, whichever is later,*
38 *the demanding party shall be required to commence the*
39 *action pursuant to subdivision (a) or thereafter be barred*
40 *from commencing the action.*

1 (c) An action taken shall not be determined to be null
2 and void if any of the following conditions exist:

3 (1) The action taken was in substantial compliance
4 with Sections 54953, 54954.2, and 54956.

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

9 (3) The action taken gave rise to a contractual
10 obligation upon which a party has, in good faith,
11 detrimentally relied.

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

14 ~~(e)~~

15 (d) During any action seeking a judicial
16 determination pursuant to subdivision (a) if the court
17 determines, pursuant to a showing by the legislative body
18 that an action alleged to have been taken in violation of
19 either Section 54953, 54954.2, or 54956 has been cured or
20 corrected by a subsequent action of the legislative body,
21 the action filed pursuant to subdivision (a) shall be
22 dismissed with prejudice.

23 (e) *The fact that a legislative body takes a subsequent*
24 *action to cure or correct an action taken pursuant to this*
25 *section shall not be construed as evidence of a violation*
26 *of this chapter.*

27 SEC. 5. Section 54960.5 of the Government Code is
28 amended to read:

29 54960.5. A court may award court costs and
30 reasonable attorney fees to the plaintiff in an action
31 brought pursuant to Section 54960 or 54960.1 where it is
32 found that a legislative body of the local agency has
33 violated this article. The costs and fees shall be paid by
34 the local agency and shall not become a personal liability
35 of any public officer or employee of the local agency.

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

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1 lacking in merit.
2 SEC. 6. Reimbursement to local agencies and school
3 districts for costs mandated by the state pursuant to this
4 act shall be made pursuant to Part 7 (commencing with
5 Section 17500) of Division 4 of Title 2 of the Government
6 Code and, if the statewide cost of the claim for
7 reimbursement does not exceed five hundred thousand
8 dollars (\$500,000), shall be made from the State Mandates
9 Claims Fund.

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AMENDED IN SENATE MAY 22, 1986
AMENDED IN ASSEMBLY MARCH 18, 1986
AMENDED IN ASSEMBLY MARCH 10, 1986
AMENDED IN ASSEMBLY MARCH 3, 1986

CALIFORNIA LEGISLATURE—1985-86 REGULAR SESSION

ASSEMBLY BILL

No. 2674

Introduced by Assembly Member Connelly
(Principal coauthor: Assembly Member Johnson)
(Coauthor: Senator Marks)

January 15, 1986

An act to amend *Sections 35144, 35145, 72121, and 72129 of the Education Code*, to amend Sections 54956, 54956.5, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, as amended, Connelly. Open meetings: local agencies.

(1) ~~Existing law, known as~~ *Under existing provisions of the Ralph M. Brown Act and the Education Code, requires that the actions of legislative bodies of local agencies and governing boards of school and community college districts are required to be taken openly and that their deliberations are required to be conducted openly.* Under ~~this~~ *these* existing law laws, the legislative body of a local agency ~~is~~ *and the governing boards of school and community college districts are not required to post a specific an agenda clearly describing the items containing a brief general description of each item* of business to be transacted or discussed at a regular meeting. Additionally, existing law does not prohibit any

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action to be taken, as defined, on any item not appearing on the posted agenda.

This bill would make this requirement and prohibition, with certain exceptions, as specified. The requirement would impose a state-mandated local program.

(2) The Ralph M. Brown Act does not require that every agenda for regular meetings provide an opportunity for members of the public to directly address the legislative body on items of interest to the public *that are within the subject matter jurisdiction of the legislative body.*

This bill would make this requirement and would require the legislative body to adopt reasonable regulations, as specified. These new requirements would impose a state-mandated local program.

(3) The Ralph M. Brown Act requires *the legislative body of a local agency to give a specified notice of special meetings.*

This bill would, in addition, require a specified posting and make a conforming change.

Existing law requires that an agenda of special meetings of the governing boards of school and community college districts be posted at least 24 hours prior to special meetings.

This bill would additionally require that the posted notice specify the time and location of the meeting. This requirement would impose a state-mandated local program.

(4) Existing law defines the term "action taken" and prescribes misdemeanor sanctions for each member of a legislative body who knowingly attends a meeting of the legislative body where action is taken in violation of the Ralph M. Brown Act. Existing law also authorizes any interested person to commence an action by mandamus, injunction, or declaratory relief to stop or prevent violations or threatened violations of statutory provisions relating to open meetings of local agencies or to determine the application of those provisions.

Under existing law, as construed by the courts, any action taken at a meeting in violation of the Ralph M. Brown Act is nonetheless valid.

This bill would authorize any interested person to commence an action by mandamus, injunction, or declaratory relief to determine if certain actions taken by the legislative

body of a local agency and the governing boards of school or community college districts are null and void, as specified. It would require the interested person to make a demand of the legislative or governing body to cure or correct the action, as specified, before commencing the action. It would provide that the fact that a legislative or governing body takes a subsequent action to cure or correct an action pursuant to this section shall not be construed as, or be admissible, as evidence of a violation of the Ralph M. Brown Act.

(5) Existing law authorizes a court to award reasonable attorneys' fee to a plaintiff where it is found the local agency has violated provisions of law relating to open meetings, or to a prevailing defendant in cases in which the court finds the action was clearly frivolous and totally lacking in merit.

This bill would authorize the award of reasonable attorneys' fees in actions to determine null and void the actions of a local agency as described in (4) above.

(6) *The bill would also declare the Legislature's intent with regard to the application of the Ralph M. Brown Act to the governing boards of school and community districts.*

(7) 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 costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

Vote: majority. 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 35144 of the Education Code is*
- 2 *amended to read:*
- 3 35144. A special meeting of the governing board of a

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1 school district may be called at any time by the presiding
 2 officer of the board, or by a majority of the members
 3 thereof, by delivering personally or by mail written
 4 notice to each member of the board, and to each local
 5 newspaper of general circulation, radio, or television
 6 station requesting notice in writing. ~~Such~~ The notice
 7 ~~must~~ shall be delivered personally or by mail at least 24
 8 hours before the time of ~~such~~ the meeting as specified in
 9 the notice. The call and notice shall specify the time and
 10 place of the special meeting and the business to be
 11 transacted. No other business shall be considered at ~~such~~
 12 those meetings by the governing board. ~~Such~~ The
 13 written notice may be dispensed with as to any member
 14 who at or prior to the time the meeting convenes files
 15 with the clerk or secretary of the board a written waiver
 16 of notice. ~~Such~~ The waiver may be given by telegram.
 17 ~~Such~~ The written notice may also be dispensed with as to
 18 any member who is actually present at the meeting at the
 19 time it convenes.

20 *The call and notice shall be posted at least 24 hours*
 21 *prior to the special meeting and shall specify the time and*
 22 *location of the meeting and be posted in a location that*
 23 *is freely accessible to members of the public and district*
 24 *employees.*

25 *SEC. 2. Section 35145 of the Education Code is*
 26 *amended to read:*

27 35145. Except as provided in Sections 54957 and
 28 54957.6 of the Government Code and in Section 35146 of,
 29 and subdivision (c) of Section 48918 of, this code, all
 30 meetings of the governing board of any school district
 31 shall be open to the public, and all actions authorized or
 32 required by law of the governing board shall be taken at
 33 the meetings and shall be subject to the following
 34 requirements:

35 (a) Minutes shall be taken at all of those meetings,
 36 recording all actions taken by the governing board. The
 37 minutes are public records ; and shall be available to the
 38 public.

39 (b) An agenda shall be posted at a place where
 40 members of the public, including district employees, may

1 view the agenda at least 48 hours prior to the time of
 2 regular meetings and at least 24 hours prior to special
 3 meetings. This agenda shall include, but is not limited to,
 4 items on which the governing board may take action at
 5 that meeting by the governing board, or its designee, in
 6 accordance with the requirements of Section 54954.2 of
 7 the Government Code. Any interested person may
 8 commence an action by mandamus or injunction
 9 pursuant to Section 54960.1 of the Government Code for
 10 the purpose of obtaining a judicial determination that any
 11 action taken by the governing board in violation of this
 12 subdivision or Section 35144 is null and void.

13 *SEC. 3. Section 72121 of the Education Code is*
 14 *amended to read:*

15 72121. Except as provided in Sections 54957 and
 16 54957.6 of the Government Code and in Section 72122 of,
 17 and subdivision (c) of Section 48914 of, this code, all
 18 meetings of the governing board of any community
 19 college district shall be open to the public, and all actions
 20 authorized or required by law of the governing board
 21 shall be taken at ~~such~~ the meetings and shall be subject
 22 to the following requirements:

23 (a) Minutes ~~must~~ shall be taken at all ~~such~~ of those
 24 meetings, recording all actions taken by the governing
 25 board. ~~Such~~ The minutes shall constitute are public
 26 records ; and shall be available to the public.

27 (b) An agenda shall be posted at a place where
 28 members of the public, including district employees, may
 29 view the same at least 48 hours prior to the time of regular
 30 meetings and at least 24 hours prior to special meetings.
 31 This agenda must include, but is not limited to, items on
 32 which the governing board may take action at that
 33 meeting by the governing board, or its designee, in
 34 accordance with the requirements of Section 54954.2 of
 35 the Government Code. Any interested person may
 36 commence an action by mandamus or injunction
 37 pursuant to Section 54960.1 of the Government Code for
 38 the purpose of obtaining a judicial determination that any
 39 action taken by the governing board in violation of this
 40 subdivision or subdivision (b) of Section 72129 is null and

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1 void.

2 *SEC. 4. Section 72129 of the Education Code is*
3 *amended to read:*

4 72129. (a) Special meetings may be held at the call
5 of the president of the board or upon a call issued in
6 writing and signed by a majority of the members of the
7 board.

8 (b) *A notice of the meeting shall be posted at least 24*
9 *hours prior to the special meeting and shall specify the*
10 *time and location of the meeting and be posted in a*
11 *location that is freely accessible to members of the public*
12 *and district employees.*

13 *SEC. 5. Section 54954.2 is added to the Government*
14 *Code, to read:*

15 54954.2. (a) At least 72 hours before a regular
16 meeting, the legislative body of the local agency, or its
17 designee, shall post a ~~specific agenda clearly describing~~
18 ~~the items an agenda containing a brief general~~
19 *description of each item* of business to be transacted or
20 discussed at the meeting. The agenda shall specify the
21 time and location of the regular meeting and shall be
22 posted in a location that is freely accessible to members
23 of the public. No action shall be taken on any item not
24 appearing on the posted agenda.

25 (b) Notwithstanding subdivision (a), the legislative
26 body may take action on items of business not appearing
27 on the posted agenda under ~~either~~ any of the following
28 conditions:

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

32 (2) Upon a ~~finding~~ *determination* by a two-thirds vote
33 of the legislative body, *or, if less than two-thirds of the*
34 *members are present, a unanimous vote of those*
35 *members present*, that the need to take action arose
36 subsequent to the agenda being posted as specified in
37 subdivision (a).

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

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

3 ~~SEC. 2.~~

4 *SEC. 6. Section 54954.3 is added to the Government*
5 *Code, to read:*

6 54954.3. (a) Every agenda for regular meetings shall
7 provide an opportunity for members of the public to
8 directly address the legislative body on items of interest
9 to the public *that are within the subject matter*
10 *jurisdiction of the legislative body*, provided that no
11 action shall be taken on any item not appearing on the
12 agenda unless the action is otherwise authorized by
13 subdivision (b) of Section 54954.2.

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

20 ~~SEC. 2.5.~~

21 *SEC. 7. Section 54956 of the Government Code is*
22 *amended to read:*

23 54956. A special meeting may be called at any time by
24 the presiding officer of the legislative body of a local
25 agency, or by a majority of the members of the legislative
26 body, by delivering personally or by mail written notice
27 to each member of the legislative body and to each local
28 newspaper of general circulation, radio or television
29 station requesting notice in writing. The notice shall be
30 delivered personally or by mail and shall be received at
31 least 24 hours before the time of the meeting as specified
32 in the notice. The call and notice shall specify the time
33 and place of the special meeting and the business to be
34 transacted. No other business shall be considered at these
35 meetings by the legislative body. The written notice may
36 be dispensed with as to any member who at or prior to
37 the time the meeting convenes files with the clerk or
38 secretary of the legislative body a written waiver of
39 notice. The waiver may be given by telegram. The
40 written notice may also be dispensed with as to any



1 member who is actually present at the meeting at the
2 time it convenes. Notice shall be required pursuant to this
3 section regardless of whether any action is taken at the
4 special meeting.

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

9 ~~SEC. 3.~~

10 ~~SEC. 8.~~ Section 54956.5 of the Government Code is
11 amended to read:

12 54956.5. In the case of an emergency situation
13 involving matters upon which prompt action is necessary
14 due to the disruption or threatened disruption of public
15 facilities, a legislative body may hold an emergency
16 meeting without complying with either the 24-hour
17 notice requirement or the 24-hour posting requirement
18 of Section 54956 or both of the notice and posting
19 requirements.

20 For purposes of this section, "emergency situation"
21 means any of the following:

22 (a) Work stoppage or other activity which severely
23 impairs public health, safety, or both, as determined by
24 a majority of the members of the legislative body.

25 (b) Crippling disaster which severely impairs public
26 health, safety, or both, as determined by a majority of the
27 members of the legislative body.

28 However, each local newspaper of general circulation
29 and radio or television station which has requested notice
30 of special meetings pursuant to Section 54956 shall be
31 notified by the presiding officer of the legislative body, or
32 designee thereof, one hour prior to the emergency
33 meeting by telephone and all telephone numbers
34 provided in the most recent request of such newspaper
35 or station for notification of special meetings shall be
36 exhausted. In the event that telephone services are not
37 functioning, the notice requirements of this section shall
38 be deemed waived, and the legislative body, or designee
39 of the legislative body, shall notify those newspapers,
40 radio stations, or television stations of the fact of the

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1 holding of the ~~special~~ emergency meeting, the purpose of
2 the meeting, and any action taken at the meeting as soon
3 after the meeting as possible.

4 Notwithstanding Section 54957, the legislative body
5 shall not meet in closed session during a meeting called
6 pursuant to this section.

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

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

18 ~~SEC. 4.~~

19 ~~SEC. 9.~~ Section 54960.1 is added to the Government
20 Code, to read:

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

29 (b) Prior to any action being commenced pursuant to
30 subdivision (a), the interested person shall make a
31 demand of the legislative body to cure or correct the
32 action alleged to have been taken in violation of Section
33 54953, 54954.2, or 54956. The demand shall be in writing
34 and clearly describe the challenged action of the
35 legislative body and nature of the alleged violation. The
36 written demand shall be made within 30 days from the
37 date the action was taken. Within ~~15~~ 30 days of receipt of
38 the demand, the legislative body shall cure or correct the
39 challenged action and inform the demanding party in
40 writing of its actions to cure or correct or inform the



1 demanding party in writing of its decision not to cure or
 2 correct the challenged action. *If the legislative body*
 3 *takes no action within the 30-day period, the inaction*
 4 *shall be deemed a decision not to cure or correct the*
 5 *challenged action, and the 15-day period to commence*
 6 *the action described in subdivision (a) shall commence to*
 7 *run the day after the 30-day period to cure or correct*
 8 *expires. Within 15 days after of receipt of the written*
 9 *information of the legislative body pursuant to the*
 10 *preceding sentence or 60 days from the body's decision*
 11 *to cure or correct, the expiration of the 30-day period to*
 12 *cure or correct, or 75 days from the date the challenged*
 13 *action was taken, whichever is later earlier, the*
 14 *demanding party shall be required to commence the*
 15 *action pursuant to subdivision (a) or thereafter be barred*
 16 *from commencing the action.*

17 (c) An action taken shall not be determined to be null
 18 and void if any of the following conditions exist:

19 (1) The action taken was in substantial compliance
 20 with Sections 54953, 54954.2, and 54956.

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

25 (3) The action taken gave rise to a contractual
 26 obligation, *including a contract let by competitive bid,*
 27 upon which a party has, in good faith, detrimentally
 28 relied.

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

31 (d) During any action seeking a judicial
 32 determination pursuant to subdivision (a) if the court
 33 determines, pursuant to a showing by the legislative body
 34 that an action alleged to have been taken in violation of
 35 Section 54953, 54954.2, or 54956 has been cured or
 36 corrected by a subsequent action of the legislative body,
 37 the action filed pursuant to subdivision (a) shall be
 38 dismissed with prejudice.

39 (e) The fact that a legislative body takes a subsequent
 40 action to cure or correct an action taken pursuant to this

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1 section shall not be construed *or admissible* as evidence
 2 of a violation of this chapter.

3 ~~SEC. 5.~~

4 *SEC. 10.* Section 54960.5 of the Government Code is
 5 amended to read:

6 54960.5. A court may award court costs and
 7 reasonable attorney fees to the plaintiff in an action
 8 brought pursuant to Section 54960 or 54960.1 where it is
 9 found that a legislative body of the local agency has
 10 violated this ~~article~~ *chapter*. The costs and fees shall be
 11 paid by the local agency and shall not become a personal
 12 liability of any public officer or employee of the local
 13 agency.

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

20 ~~SEC. 6.~~

21 *SEC. 11.* *The Legislature does not intend, by*
 22 *including an express reference to Sections 54954.2 and*
 23 *54960.1 of the Government Code in Sections 35145 and*
 24 *72121 of the Education Code, as amended by this act, to*
 25 *imply that other sections of the Ralph M. Brown Act*
 26 *which have been construed as applying to meetings of*
 27 *the governing boards of school and community college*
 28 *districts shall not continue to apply to those meetings.*

29 *SEC. 12.* Reimbursement to local agencies and school
 30 districts for costs mandated by the state pursuant to this
 31 act shall be made pursuant to Part 7 (commencing with
 32 Section 17500) of Division 4 of Title 2 of the Government
 33 Code and, if the statewide cost of the claim for
 34 reimbursement does not exceed five hundred thousand
 35 dollars (\$500,000), shall be made from the State Mandates
 36 Claims Fund.

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AMENDED IN SENATE JUNE 4, 1986

AMENDED IN SENATE MAY 22, 1986

AMENDED IN ASSEMBLY MARCH 18, 1986

AMENDED IN ASSEMBLY MARCH 10, 1986

AMENDED IN ASSEMBLY MARCH 3, 1986

CALIFORNIA LEGISLATURE—1985-86 REGULAR SESSION

ASSEMBLY BILL

No. 2674

Introduced by Assembly Member Connelly
(Principal coauthor: Assembly Member Johnson)
(~~Coauthor: Senator Marks~~) (Coauthors: Senators Ayala,
Bergeson, Craven, and Marks)

January 15, 1986

An act to amend Sections 35144, 35145, 72121, and 72129 of the Education Code, to amend Sections 54956, 54956.5, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2674, as amended, Connelly. Open meetings: local agencies.

(1) Under existing provisions of the Ralph M. Brown Act and the Education Code, the actions of legislative bodies of local agencies and governing boards of school and community college districts are required to be taken openly and their deliberations are required to be conducted openly. Under these existing laws, the legislative body of a local agency and the governing boards of school and community college districts are not required to post an agenda containing a brief general description of each item of business to be transacted or discussed at a regular meeting. Additionally, existing law



does not prohibit any action to be taken, as defined, on any item not appearing on the posted agenda.

This bill would make this requirement and prohibition, with certain exceptions, as specified. The requirement would impose a state-mandated local program.

(2) The Ralph M. Brown Act does not require that every agenda for regular meetings provide an opportunity for members of the public to directly address the legislative body on items of interest to the public that are within the subject matter jurisdiction of the legislative body.

This bill would, *except as specified*, make this requirement and would require the legislative body to adopt reasonable regulations, as specified. These new requirements would impose a state-mandated local program.

(3) The Ralph M. Brown Act requires the legislative body of a local agency to give a specified notice of special meetings.

This bill would, in addition, require a specified posting and make a conforming change.

Existing law requires that an agenda of special meetings of the governing boards of school and community college districts be posted at least 24 hours prior to special meetings.

This bill would additionally require that the posted notice specify the time and location of the meeting. This requirement would impose a state-mandated local program.

(4) Existing law defines the term "action taken" and prescribes misdemeanor sanctions for each member of a legislative body who knowingly attends a meeting of the legislative body where action is taken in violation of the Ralph M. Brown Act. Existing law also authorizes any interested person to commence an action by mandamus, injunction, or declaratory relief to stop or prevent violations or threatened violations of statutory provisions relating to open meetings of local agencies or to determine the application of those provisions.

Under existing law, as construed by the courts, any action taken at a meeting in violation of the Ralph M. Brown Act is nonetheless valid.

This bill would authorize any interested person to commence an action by mandamus, injunction, or declaratory relief to determine if certain actions taken by the legislative

body of a local agency and the governing boards of school or community college districts are null and void, as specified. It would require the interested person to make a demand of the legislative or governing body to cure or correct the action, as specified, before commencing the action. It would provide that the fact that a legislative or governing body takes a subsequent action to cure or correct an action pursuant to this section shall not be construed, or be admissible, as evidence of a violation of the Ralph M. Brown Act.

(5) Existing law authorizes a court to award reasonable attorneys' fee to a plaintiff where it is found the local agency has violated provisions of law relating to open meetings, or to a prevailing defendant in cases in which the court finds the action was clearly frivolous and totally lacking in merit.

This bill would authorize the award of reasonable attorneys' fees in actions to determine null and void the actions of a local agency as described in (4) above.

(6) The bill would also declare the Legislature's intent with regard to the application of the Ralph M. Brown Act to the governing boards of school and community districts.

(7) 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 costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

Vote: majority. 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 35144 of the Education Code is
- 2 amended to read:
- 3 35144. A special meeting of the governing board of a

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1 school district may be called at any time by the presiding
 2 officer of the board, or by a majority of the members
 3 thereof, by delivering personally or by mail written
 4 notice to each member of the board, and to each local
 5 newspaper of general circulation, radio, or television
 6 station requesting notice in writing. The notice shall be
 7 delivered personally or by mail at least 24 hours before
 8 the time of the meeting as specified in the notice. The call
 9 and notice shall specify the time and place of the special
 10 meeting and the business to be transacted. No other
 11 business shall be considered at those meetings by the
 12 governing board. The written notice may be dispensed
 13 with as to any member who at or prior to the time the
 14 meeting convenes files with the clerk or secretary of the
 15 board a written waiver of notice. The waiver may be
 16 given by telegram. The written notice may also be
 17 dispensed with as to any member who is actually present
 18 at the meeting at the time it convenes.

19 The call and notice shall be posted at least 24 hours
 20 prior to the special meeting ~~and shall specify the time and~~
 21 ~~location of the meeting and be posted~~ in a location that
 22 is freely accessible to members of the public and district
 23 employees.

24 SEC. 2. Section 35145 of the Education Code is
 25 amended to read:

26 35145. Except as provided in Sections 54957 and
 27 54957.6 of the Government Code and in Section 35146 of,
 28 and subdivision (c) of Section 48918 of, this code, all
 29 meetings of the governing board of any school district
 30 shall be open to the public, and all actions authorized or
 31 required by law of the governing board shall be taken at
 32 the meetings and shall be subject to the following
 33 requirements:

34 (a) Minutes shall be taken at all of those meetings,
 35 recording all actions taken by the governing board. The
 36 minutes are public records and shall be available to the
 37 public.

38 (b) An agenda shall be posted by the governing board,
 39 or its designee, in accordance with the requirements of
 40 Section 54954.2 of the Government Code. Any interested

1 person may commence an action by mandamus or
 2 injunction pursuant to Section 54960.1 of the
 3 Government Code for the purpose of obtaining a judicial
 4 determination that any action taken by the governing
 5 board in violation of this subdivision or Section 35144 is
 6 null and void.

7 SEC. 3. Section 72121 of the Education Code is
 8 amended to read:

9 72121. Except as provided in Sections 54957 and
 10 54957.6 of the Government Code and in Section 72122 of,
 11 and subdivision (c) of Section 48914 of, this code, all
 12 meetings of the governing board of any community
 13 college district shall be open to the public, and all actions
 14 authorized or required by law of the governing board
 15 shall be taken at the meetings and shall be subject to the
 16 following requirements:

17 (a) Minutes shall be taken at all of those meetings,
 18 recording all actions taken by the governing board. The
 19 minutes are public records and shall be available to the
 20 public.

21 (b) An agenda shall be posted by the governing board,
 22 or its designee, in accordance with the requirements of
 23 Section 54954.2 of the Government Code. Any interested
 24 person may commence an action by mandamus or
 25 injunction pursuant to Section 54960.1 of the
 26 Government Code for the purpose of obtaining a judicial
 27 determination that any action taken by the governing
 28 board in violation of this subdivision or subdivision (b) of
 29 Section 72129 is null and void.

30 SEC. 4. Section 72129 of the Education Code is
 31 amended to read:

32 72129. (a) Special meetings may be held at the call of
 33 the president of the board or upon a call issued in writing
 34 and signed by a majority of the members of the board.

35 (b) A notice of the meeting shall be posted at least 24
 36 hours prior to the special meeting and shall specify the
 37 time and location of the meeting and *the business to be*
 38 *transacted and shall* be posted in a location that is freely
 39 accessible to members of the public and district
 40 employees.

1 SEC. 5. Section 54954.2 is added to the Government
2 Code, to read:

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

12 (b) Notwithstanding subdivision (a), the legislative
13 body may take action on items of business not appearing
14 on the posted agenda under any of the following
15 conditions:

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

19 (2) Upon a determination by a two-thirds vote of the
20 legislative body, or, if less than two-thirds of the members
21 are present, a unanimous vote of those members present,
22 that the need to take action arose subsequent to the
23 agenda being posted as specified in subdivision (a).

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

29 SEC. 6. Section 54954.3 is added to the Government
30 Code, to read:

31 54954.3. (a) Every agenda for regular meetings shall
32 provide an opportunity for members of the public to
33 directly address the legislative body on items of interest
34 to the public that are within the subject matter
35 jurisdiction of the legislative body, provided that no
36 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. *However, in the case*
39 *of a meeting of a city council in a city or a board of*
40 *supervisors in a city and county, the agenda need not*

1 *provide an opportunity for members of the public to*
2 *address the council or board on any item that has already*
3 *been considered by a committee, composed exclusively*
4 *of members of the council or board, at a public meeting*
5 *wherein all interested members of the public were*
6 *afforded the opportunity to address the committee on the*
7 *item, unless the item has been substantially changed*
8 *since the committee heard the item, as determined by*
9 *the council or board.*

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

16 SEC. 7. Section 54956 of the Government Code is
17 amended to read:

18 54956. A special meeting may be called at any time by
19 the presiding officer of the legislative body of a local
20 agency, or by a majority of the members of the legislative
21 body, by delivering personally or by mail written notice
22 to each member of the legislative body and to each local
23 newspaper of general circulation, radio or television
24 station requesting notice in writing. The notice shall be
25 delivered personally or by mail and shall be received at
26 least 24 hours before the time of the meeting as specified
27 in the notice. The call and notice shall specify the time
28 and place of the special meeting and the business to be
29 transacted. No other business shall be considered at these
30 meetings by the legislative body. The written notice may
31 be dispensed with as to any member who at or prior to
32 the time the meeting convenes files with the clerk or
33 secretary of the legislative body a written waiver of
34 notice. The waiver may be given by telegram. The
35 written notice may also be dispensed with as to any
36 member who is actually present at the meeting at the
37 time it convenes. Notice shall be required pursuant to this
38 section regardless of whether any action is taken at the
39 special meeting.

40 The call and notice shall be posted at least 24 hours

1 prior to the special meeting and shall specify the time and
 2 location of the meeting and be posted in a location that
 3 is freely accessible to members of the public.

4 SEC. 8. Section 54956.5 of the Government Code is
 5 amended to read:

6 54956.5. In the case of an emergency situation
 7 involving matters upon which prompt action is necessary
 8 due to the disruption or threatened disruption of public
 9 facilities, a legislative body may hold an emergency
 10 meeting without complying with either the 24-hour
 11 notice requirement or the 24-hour posting requirement
 12 of Section 54956 or both of the notice and posting
 13 requirements.

14 For purposes of this section, "emergency situation"
 15 means any of the following:

16 (a) Work stoppage or other activity which severely
 17 impairs public health, safety, or both, as determined by
 18 a majority of the members of the legislative body.

19 (b) Crippling disaster which severely impairs public
 20 health, safety, or both, as determined by a majority of the
 21 members of the legislative body.

22 However, each local newspaper of general circulation
 23 and radio or television station which has requested notice
 24 of special meetings pursuant to Section 54956 shall be
 25 notified by the presiding officer of the legislative body, or
 26 designee thereof, one hour prior to the emergency
 27 meeting by telephone and all telephone numbers
 28 provided in the most recent request of such newspaper
 29 or station for notification of special meetings shall be
 30 exhausted. In the event that telephone services are not
 31 functioning, the notice requirements of this section shall
 32 be deemed waived, and the legislative body, or designee
 33 of the legislative body, shall notify those newspapers,
 34 radio stations, or television stations of the fact of the
 35 holding of the emergency meeting, the purpose of the
 36 meeting, and any action taken at the meeting as soon
 37 after the meeting as possible.

38 Notwithstanding Section 54957, the legislative body
 39 shall not meet in closed session during a meeting called
 40 pursuant to this section.

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

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

12 SEC. 9. Section 54960.1 is added to the Government
 13 Code, to read:

14 54960.1. (a) Any interested person may commence
 15 an action by mandamus or injunction for the purpose of
 16 obtaining a judicial determination that an action taken by
 17 a legislative body of a local agency in violation of Section
 18 54953, 54954.2, or 54956 is null and void under this section.
 19 Nothing in this chapter shall be construed to prevent a
 20 legislative body from curing or correcting an action
 21 challenged pursuant to this section.

22 (b) Prior to any action being commenced pursuant to
 23 subdivision (a), the interested person shall make a
 24 demand of the legislative body to cure or correct the
 25 action alleged to have been taken in violation of Section
 26 54953, 54954.2, or 54956. The demand shall be in writing
 27 and clearly describe the challenged action of the
 28 legislative body and nature of the alleged violation. The
 29 written demand shall be made within 30 days from the
 30 date the action was taken. Within 30 days of receipt of the
 31 demand, the legislative body shall cure or correct the
 32 challenged action and inform the demanding party in
 33 writing of its actions to cure or correct or inform the
 34 demanding party in writing of its decision not to cure or
 35 correct the challenged action. If the legislative body takes
 36 no action within the 30-day period, the inaction shall be
 37 deemed a decision not to cure or correct the challenged
 38 action, and the 15-day period to commence the action
 39 described in subdivision (a) shall commence to run the
 40 day after the 30-day period to cure or correct expires.

1 Within 15 days of receipt of the written ~~information~~
2 notice of the legislative body's decision to cure or correct,
3 the expiration of the 30-day period to cure or correct, or
4 75 days from the date the challenged action was taken,
5 whichever is earlier, the demanding party shall be
6 required to commence the action pursuant to subdivision
7 (a) or thereafter be barred from commencing the action.

8 (c) An action taken shall not be determined to be null
9 and void if any of the following conditions exist:

10 (1) The action taken was in substantial compliance
11 with Sections 54953, 54954.2, and 54956.

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

16 (3) The action taken gave rise to a contractual
17 obligation, including a contract let by competitive bid,
18 upon which a party has, in good faith, detrimentally
19 relied.

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

22 (d) During any action seeking a judicial
23 determination pursuant to subdivision (a) if the court
24 determines, pursuant to a showing by the legislative body
25 that an action alleged to have been taken in violation of
26 Section 54953, 54954.2, or 54956 has been cured or
27 corrected by a subsequent action of the legislative body,
28 the action filed pursuant to subdivision (a) shall be
29 dismissed with prejudice.

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

34 SEC. 10. Section 54960.5 of the Government Code is
35 amended to read:

36 54960.5. A court may award court costs and
37 reasonable attorney fees to the plaintiff in an action
38 brought pursuant to Section 54960 or 54960.1 where it is
39 found that a legislative body of the local agency has
40 violated this chapter. The costs and fees shall be paid by

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1 the local agency and shall not become a personal liability
2 of any public officer or employee of the local agency.

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

9 SEC. 11. The Legislature does not intend, by
10 including an express reference to Sections 54954.2 and
11 54960.1 of the Government Code in Sections 35145 and
12 72121 of the Education Code, as amended by this act, to
13 imply that other sections of the Ralph M. Brown Act
14 which have been construed as applying to meetings of
15 the governing boards of school and community college
16 districts shall not continue to apply to those meetings.

17 SEC. 12. Reimbursement to local agencies and school
18 districts for costs mandated by the state pursuant to this
19 act shall be made pursuant to Part 7 (commencing with
20 Section 17500) of Division 4 of Title 2 of the Government
21 Code and, if the statewide cost of the claim for
22 reimbursement does not exceed five hundred thousand
23 dollars (\$500,000), shall be made from the State Mandates
24 Claims Fund.

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CHAPTER 641

An act to amend Sections 35144, 35145, 72121, and 72129 of the Education Code, to amend Sections 54956, 54956.5, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

[Approved by Governor August 29, 1986. Filed with Secretary of State September 2, 1986.]

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

SECTION 1. Section 35144 of the Education Code is amended to read:

35144. A special meeting of the governing board of a school district may be called at any time by the presiding officer of the board, or by a majority of the members thereof, by delivering personally or by mail written notice to each member of the board, and to each local newspaper of general circulation, radio, or television station requesting notice in writing. The notice shall be delivered personally or by mail 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. No other business shall be considered at those meetings by the governing board. 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 board 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 and district employees.

SEC. 2. Section 35145 of the Education Code is amended to read:

35145. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 35146 of, and subdivision (c) of Section 48918 of, this code, all meetings of the governing board of any school district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

(b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in



violation of this subdivision or Section 35144 is null and void.

SEC. 3. Section 72121 of the Education Code is amended to read:

72121. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 72122 of, and subdivision (c) of Section 48914 of, this code, all meetings of the governing board of any community college district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

(a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.

(b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in violation of this subdivision or subdivision (b) of Section 72129 is null and void.

SEC. 4. Section 72129 of the Education Code is amended to read:

72129. (a) Special meetings may be held at the call of the president of the board or upon a call issued in writing and signed by a majority of the members of the board.

(b) A notice of the meeting shall be posted at least 24 hours prior to the special meeting and shall specify the time and location of the meeting and the business to be transacted and shall be posted in a location that is freely accessible to members of the public and district employees.

SEC. 5. Section 54954.2 is added to the Government Code, to read:

54954.2. (a) 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. 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. No action shall be taken on any item not appearing on the posted 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 following conditions:

(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 legislative body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that the need to take action arose 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.

SEC. 6. Section 54954.3 is added to the Government Code, to read:

54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on items of interest to the public that are 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, in the case of a meeting of a city council in a city or a board of supervisors in a city and county, the agenda need not provide an opportunity for members of the public to address the council or board on any item that has already been considered by a committee, composed exclusively of members of the council or board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, unless the item has been substantially changed since the committee heard the item, as determined by the council or board.

(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.

SEC. 7. Section 54956 of the Government Code is amended to read:

54956. 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 personally or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice shall be delivered personally or by mail 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. 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. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

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.

SEC. 8. Section 54956.5 of the Government Code is amended to read:

54956.5. 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.

For purposes of this section, "emergency situation" means any of the following:

(a) Work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

However, each local newspaper of general circulation and radio or television station which 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 by telephone and all telephone numbers provided in the most recent request of such newspaper or station for notification 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.

Notwithstanding Section 54957, the legislative body shall not meet in closed session during a meeting called pursuant to this section.

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.

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.

SEC. 9. Section 54960.1 is added to the Government Code, to read:

54960.1. (a) 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, or 54956 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 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, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation. The written demand shall be made within 30 days from the date the action was taken. 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. 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. Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, the expiration of the 30-day period to cure or correct, or 75 days from the date the challenged action was taken, 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.

(c) An action taken 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, and 54956.

(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, upon which a party has, in good faith, detrimentally relied.

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

(d) 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, or 54956 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.

(e) 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.

SEC. 10. Section 54960.5 of the Government Code is amended to read:

54960.5. 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.

SEC. 11. The Legislature does not intend, by including an express reference to Sections 54954.2 and 54960.1 of the Government Code in Sections 35145 and 72121 of the Education Code, as amended by this act, to imply that other sections of the Ralph M. Brown Act which have been construed as applying to meetings of the governing boards of school and community college districts shall not continue to apply to those meetings.

SEC. 12. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 642

An act to amend Sections 27538 and 27641 of, and to add Section 27537.5 to, the Health and Safety Code, relating to food facilities.

[Approved by Governor August 29, 1986. Filed with
Secretary of State September 2, 1986.]

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

SECTION 1. Section 27537.5 is added to the Health and Safety Code, to read:

27537.5. "Stationary mobile food preparation unit" means any mobile food preparation unit, as defined by Section 27526, which operates at a state, county, district, or citrus fair or any approved occasional event, and which remains in a fixed position during food preparation and its hours of operation.

SEC. 2. Section 27538 of the Health and Safety Code is amended to read:

27538. "Temporary food facility" means a food facility operating out of temporary facilities approved by the enforcement officer at a fixed location for a period of time not to exceed 21 days in any 90-day period in conjunction with a single event or celebration.

SEC. 3. Section 27641 of the Health and Safety Code is amended to read:

EXHIBIT C

KELLER & STALLARD
P. O. BOX 1817
WOODLAND, CA 95695

VOLUME 2

CALIFORNIA LEGISLATURE

AT SACRAMENTO

1985-86 REGULAR SESSION

ASSEMBLY FINAL HISTORY

SYNOPSIS OF

ASSEMBLY BILLS, CONSTITUTIONAL AMENDMENTS, CONCURRENT,
JOINT, AND HOUSE RESOLUTIONS

Assembly Convened December 3, 1984

Recessed December 4, 1984	Reconvened January 7, 1985
Recessed March 28, 1985	Reconvened April 8, 1985
Recessed July 18, 1985	Reconvened August 19, 1985
Recessed September 13, 1985	Reconvened January 6, 1986
Recessed March 20, 1986	Reconvened March 31, 1986
Recessed July 11, 1986	Reconvened August 11, 1986

Recessed September 15, 1986

Adjourned Sine Die November 30, 1986

Legislative Days..... 251

HON. WILLIE L. BROWN JR.
Speaker

HON. FRANK VICENCIA
Speaker pro Tempore

HON. TOM BANE
Assistant Speaker pro Tempore

HON. MIKE ROOS
Majority Floor Leader

HON. PAT NOLAN
Minority Floor Leader

Compiled Under the Direction of

JAMES D. DRISCOLL

Chief Clerk

GUNVOR ENGLE

History Clerk

46-AFH-0683

048

LEGISLATIVE INTENT SERVICE (800) 666-1917



A.B. No. 2674—Connelly (Principal coauthor: Johnson) (Senators Ayala, Bergeson, Craven, and Marks, coauthors).

An act to amend Sections 35144, 35145, 72121, and 72129 of the Education Code, to amend Sections 54956, 54956.5, and 54960.5 of, and to add Sections 54954.2, 54954.3, and 54960.1 to, the Government Code, relating to local agencies.

1986

- Jan. 15—Read first time. To print.
- Jan. 16—From printer. May be heard in committee February 15.
- Feb. 4—Referred to Com. on L.GOV.
- Feb. 25—In committee: Set, first hearing. Hearing canceled at the request of author.
- Mar. 3—From committee chairman, with author's amendments: Amend, and re-refer to Com. on L.GOV. Read second time and amended.
- Mar. 5—Re-referred to Com. on L.GOV.
- Mar. 10—From committee chairman, with author's amendments: Amend, and re-refer to Com. on L.GOV. Read second time and amended.
- Mar. 11—Re-referred to Com. on L.GOV.
- Mar. 11—In committee: Hearing for testimony only.
- Mar. 18—From committee chairman, with author's amendments: Amend, and re-refer to Com. on L.GOV. Read second time and amended.
- Mar. 19—Re-referred to Com. on L.GOV.
- April 2—From committee: Do pass, and re-refer to Com. on W. & M. Re-referred. (Ayes 8. Noes 0.) (April 1).
- April 9—From committee: Do pass. (Ayes 20. Noes 1.) (April 9).
- April 10—Read second time. To third reading.
- April 14—Read third time, passed, and to Senate. (Ayes 69. Noes 4. Page 6484.)
- April 14—In Senate. Read first time. To Com. on RLS. for assignment.
- April 17—Referred to Com. on L.GOV.
- May 22—From committee chairman, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on L.GOV.
- June 2—From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 5. Noes 0.)
- June 4—Read second time, amended, and re-referred to Com. on APPR.
- June 24—From committee: Do pass. (Ayes 6. Noes 0.)
- June 25—Read second time. To third reading.
- July 3—Read third time, passed, and to Assembly. (Ayes 37. Noes 0. Page 6702.)
- July 3—In Assembly, Concurrence in Senate amendments pending.
- July 10—To inactive file on motion of Assembly Member Connelly.
- Aug. 11—From inactive file. To unfinished business file.
- Aug. 14—Senate amendments concurred in. To enrollment. (Ayes 76. Noes 0. Page 8923.)
- Aug. 18—Enrolled and to the Governor at 11 a.m.
- Aug. 29—Approved by the Governor.
- Sept. 2—Chaptered by Secretary of State - Chapter 641, Statutes of 1986.

A.B. No. 2675—Felando.

An act relating to the leasing of public lands.

1986

- Jan. 15—Read first time. To print.
- Jan. 16—From printer. May be heard in committee February 15.
- Jan. 28—Referred to Com. on NAT. RES.
- Nov. 30—From committee without further action.



EXHIBIT D

Date of Hearing: March 11, 1986

AB 2674

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
DOMINIC L. CORTESE, Chairman

AB 2674 (Connelly) - As Amended: March 10, 1986

ASSEMBLY ACTIONS:

COMMITTEE _____	L. GOV. _____	VOTE _____	COMMITTEE _____	VOTE _____
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Ayes:

Ayes:

Nays:

Nays:

SUBJECT

This bill would modify the Brown Act to require local agencies to post specific agendas 72 hours prior to conducting a meeting; prohibit a legislative body from taking action on items not on the posted agenda; require local agencies to establish regulations to provide the public the opportunity to address the legislative body; and would render actions null and void if the action is determined to be in violation of the Brown Act.

DIGEST

Current law under the Ralph M. Brown Act, requires all meetings of a legislative body of a local agency to be open and public. The law generally requires prior written notification of all regular meetings of a local agency. The Brown Act requires 24-hour notice of meetings and allows for "emergency" meetings without prior notice in certain situations. In addition, current law authorizes all local agencies to establish rules and regulations which allow for greater public access.

This bill would require a 72-hour posting of an agenda prior to a regular meeting of a local agency and prohibits the legislative body from acting on any item not included in the agenda, unless a majority of the legislative body makes a finding that an "emergency" situation exists, or upon a finding by 2/3 vote of the legislative body that failure to take an action would result in serious harm to the public and that the need to take action arose suddenly and unexpectedly and subsequent to the agenda being posted.

Assembly Bill 2674 would specify that a local agency can call a special meeting at any time if a majority of the legislative bodys' membership and the press is notified at least 24-hours prior to the meeting.

- continued -

AB 2674



This bill would require local agencies subject to the Brown Act to establish regulations which provide the public the opportunity to address the legislative body at each regular meeting.

In addition, AB 2674 would allow any interested person to take action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body or local agency is in violation of the open meetings act and is therefore null and void. Such an action would have to be taken within 30 days from the date of the legislative action. If the legislative body cures or corrects the action it would be dismissed without prejudice.

Under AB 2674 exceptions to the null and void provisions would include actions which involved the sale or issuance of bonds, a contractual agreement, the collection of taxes, or the actions which are determined to have been in "substantial" compliance with the open meetings act.

FISCAL EFFECT

State mandated local program. Potential significant costs for required written, mailed and published notice requirements.

COMMENTS

1. Opponents to Assembly Bill 2674 argue that the measure unnecessarily ties a local agency's hands. It is argued that the "no action" provision would prohibit a governing body from acting promptly. Sometimes, items which are added to an agenda just prior to a meeting are in response to public requests on noncontroversial items like street closings for parades, release of developer's bonds, repair requests, or resolutions honoring citizens.

In addition, opponents believe that the "null and void" provision would have a chilling effect for 30 days on all council actions.

2. Supporters of Assembly Bill 2674 argue that the Brown Act needs "teeth" because local agencies are currently able to skirt the spirit and letter of the law, and thus conduct public business without public participation. AB 2674 would, by requiring the posting of a specific agenda, give the public more advance notice time and afford the public greater opportunities for participation in government decision making.

In addition it has been argued that even when there has been a noted violation of the Brown Act, the action that was the subject of the violation stands. AB 2674 would render these action null and void, thus putting "teeth" into the Brown Act.

- continued -



3. The author has been working with the opponents of AB 2674 in an effort to develop an administrative remedy to violations of the Brown Act. These provision are currently being drafted.
4. The Bagley-Keene Open Meeting Act requires state boards and commission to conduct open meetings and to provide specific agendas in advance. In addition the Legislature operates under specific rules regulating its meeting notices and agendas. The Legislative rules are allowed to be waived without prior public notice when a member desires to move his or her legislation, by approval of a simple majority of members, regardless of the urgency of the issue.

Is there a demonstrated need for local agencies to operate under strengthened public notice requirements and standards?

SUPPORT

League of Women Voters of California
 Cal-Tax
 Attorney General's Office
 California Freedom of Information
 Committee
 California State PTA

Opposition

City of Manhattan Beach
 City of Clearlake
 California Association of Sanitation
 Agencies
 City of Petaluma
 City of Cupertino
 City of National City
 City of San Mateo
 City of Coronado
 City of Lynwood
 City of Pacific Grove
 City of Gardena
 Los Angeles City Council
 City of Vernon
 City of Duarte
 Town of Paradise
 City of Concord
 City of Hercules
 City of Palm Springs
 City of La Mirada
 City of Santa Clara
 City of El Monte
 City of Ridgecrest
 City of Lindsay
 City of Ceres
 City of Norwalk
 City of Manteca
 City of Culver City

- continued -



City of San Juan Capistrano
City of Modesto
City of National City
City of Fillmore
Paradise Irrigation District
City of Barstow



Date of Hearing: April 1, 1986

AB 2674

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
DOMINIC L. CORTESE, Chairman

AB 2674 (Connelly) - As Amended: March 18, 1986

ASSEMBLY ACTIONS:

COMMITTEE _____ VOTE _____ COMMITTEE _____ VOTE _____

Ayes:

Ayes:

Nays:

Nays:

SUBJECT

This bill would modify the Brown Act to require local agencies to post specific agendas 72 hours prior to conducting a meeting; prohibit a legislative body from taking action on items not on the posted agenda; require local agencies to establish regulations to provide the public the opportunity to address the legislative body; and would render actions null and void if the action is determined to be in violation of the Brown Act.

DIGEST

Current law under the Ralph M. Brown Act, requires all meetings of a legislative body of a local agency to be conducted open and public. The law generally requires prior written notification of all regular meetings of a local agency. The Brown Act requires 24-hour notice of meetings and allows for "emergency" meetings without prior notice in certain situations. In addition current law authorizes all local agencies to establish rules and regulations which allow for greater public access.

This bill would require posting of an agenda 72 hours prior to a regular meeting of a local agency. It would prohibit the legislative body from acting on any item not included in the agenda, unless a majority of the legislative body makes a finding that an "emergency" situation exists, or finds, by a 2/3 vote of the legislative body, that the need to take an action arose subsequent to the agenda being posted.

Assembly Bill 2674 would specify that a local agency can call a special meeting at any time if a majority of the legislative bodys' membership and the press is notified at least 24-hours prior to the meeting.

This bill would require local agencies subject to the Brown Act (such as county boards of supervisors, city councils, their standing committees, special

- continued -

AB 2674



district boards and local commissions, such as planning commissions) to establish regulations which provide the public the opportunity to address the legislative body at each regular meeting.

In addition, AB 2674 would allow any interested person to take action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body or local agency is in violation of the Brown Act and is therefore null and void. Such an action would have to be taken within 30 days from the date of the legislative action. If the legislative body cures or corrects its action, the case would be dismissed with prejudice.

Under AB 2674, exceptions to the null and void provisions would include actions which involved the sale or issuance of bonds, a contractual agreement, the collection of taxes, or cases where the action was determined to have been in "substantial" compliance with the Act.

FISCAL EFFECT

State mandated local program. Potential significant costs for required written, mailed and published notice requirements.

COMMENTS

1. Opponents to Assembly Bill 2674 contend that the measure unnecessarily ties local agency hands. It is argued that the "no action" provision would prohibit the council from acting promptly on matters which may be in response to public requests on noncontroversial items like street closings for parades, release of developer's bonds, repair requests, or resolutions honoring citizens.

In addition, opponents believe that the "null and void" provision would have a chilling effect for 30 days on all council actions.

2. Supporters of Assembly Bill 2674 argue that the Brown Act needs "teeth" because local agencies are currently able to skirt the spirit and letter of the law, and thus conduct public business without public participation. AB 2674 would, by requiring the posting of a specific agenda, give the public more advance notice and increased opportunities for participation in government decision making.

In addition, it has been argued that even when there has been a noted violation of the Brown Act, the action that was the subject of the violation stands. AB 2674 would render these action null and void, thus putting "teeth" into the Brown Act.

- continued -



3. The Bagley-Keene Open Meeting Act requires state boards and commission to conduct open meetings and to provide specific agendas in advance. In addition, the Legislature operates under specific rules regulating its meeting notices and agendas. The Legislative rules are allowed to be waived without prior public notice when a member desires to move his or her legislation, by 2/3 approval of both houses, regardless of the urgency of the issue.

SUPPORT

OPPOSITION

Below is a list of support/opposition received since March 11, 1986:

California Grocers Association
California Society of Newspaper
Editors

San Mateo County Council of Mayors
City and County of San Francisco
City of San Luis Obispo
City of Bradbury



EXHIBIT E

BILL LANCASTER
VICE CHAIRMAN
BILL BRADLEY
BRUCE BRONZAN
CHARLES M. CALDERON
GERALD R. EAVES
ROBERT C. FRAZEE
DAN HAUSER
RICHARD L. MOUNTJOY
RICHARD ROBINSON

California Legislature

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814
PHONE (916) 445-6034

CASEY SPARKS
PRINCIPAL CONSULTANT

MARY McMILLAN
SENIOR CONSULTANT

PAM OTO
COMMITTEE SECRETARY

Assembly Committee on Local Government

DOMINIC L. CORTESE
CHAIRMAN

MEMBER OF THE ASSEMBLY
TWENTY-FOURTH DISTRICT

ASSEMBLY LOCAL GOVERNMENT COMMITTEE

BILL ANALYSIS WORK SHEET

Date: 2/4/86

To: Hon. Lloyd Connelly

Your measure AB 2674 has been referred to the Assembly Local Government Committee.

Please complete this form and return it to the Committee (Room 6031) no later than 2/10/86. If you have any questions, please contact the Committee at 445-6034.

1. Origin of bill: (See attached documents)
 - A. What is the source of the bill? (What person, organization, or governmental entity, if any, requested introduction?)
 - B. Who should be contacted regarding this bill? (Please include a phone number.)
 - C. Has a similar bill been before either this or a previous session of the Legislature? If so, please identify the session, bill number and disposition of the bill.
 - D. Has there been an interim committee report on the bill? If so, please identify the report.
2. Problem or deficiency in the present law which the bill seeks to remedy: (What is the reason for this bill?)

LIS - 4a

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AP-1

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3. Please attach copies of any background material in explanation of the bill or state where such material is available for reference by the committee staff.

4. Hearing:

A. Anticipated witnesses:

B. Anticipated support and opposition:

5. Will there be amendments to this bill? If so, all amendments must be received by the committee at least seven (7) days prior to the hearing date. Please send us a copy of what will be submitted to Legislative Counsel.

STAFF CONTACT PERSON: Gene Erbin
PHONE: 4-7593

RETURN THIS FORM TO: Pam Oto, Committee Secretary
Assembly Local Government Committee
State Capitol, Room 6031, 445-6034

Many thanks.

LEGISLATIVE INTENT SERVICE (800) 666-1917



DISTRICT OFFICE
FORT SUTTER BUILDING
2705 K STREET, SUITE 6
SACRAMENTO, CALIFORNIA 95816
443-1183

CAPITOL OFFICE
STATE CAPITOL
SACRAMENTO, CALIFORNIA 95814
445-2484

Assembly California Legislature

COMMITTEES
WAYS AND MEANS
JUDICIARY
ENVIRONMENTAL SAFETY
AND TOXIC MATERIALS
AGING & LONG TERM CARE

SUBCOMMITTEES
CHAIR, ADMINISTRATION OF
JUSTICE
STATE ADMINISTRATION
HEALTH & WELFARE

LLOYD G. CONNELLY

MEMBER OF THE LEGISLATURE
SIXTH ASSEMBLY DISTRICT

REPLY TO BILL ANALYSIS WORKSHEET

1. (A.) AB 2674 is the product of a joint effort between my office and Common Cause. Common Cause is the sponsor.

(B.) Contact Gene Erbin at 4-7593.

(C.) In 1961, Governor Pat Brown vetoed a bill that would have added a "null and void" clause to the Brown Act. His veto message states: "I believe that this bill would seriously imperil the finality of all local legislative decisions." (Assembly Daily Journal May 8, 1961 p. 3430. See also Griswold v. Mt. Diablo Unified School District (1976) 63 Cal.App.3d 648 at 657; Attorney General Opinion 83-912, March 8, 1984.)

(D.) Not to my knowledge.
2. The attached materials fully explain the purpose of the bill and describe the deficiency in law that the bill will correct. See pages 10 and 26 of the enclosed Attorney General publication for a concise description of the existing deficiencies.
3. See enclosed material.
4. (A.) Uncertain at this time.

(B.) Support

Attorney General
Common Cause
League of Women Voters
California District Attorneys Association
San Joaquin County District Attorney
Los Angeles County District Attorney
Sierra Club
Numerous Newspapers (attached)

Opposition

League of California Cities
5. There will be amendments, which will be submitted in a timely manner.



Santa Ana, CA
(Orange Co.)
Register
(Cir. D. 279,452)
(Cir. Sat. 246,128)
(Cir. Sun. 311,062)

JAN 17 1986

Allen's P. C. B Est. 1888

Government in the open

Last year the state Legislature put some teeth into the open-meeting law covering state agencies. This year, it has a chance to do the same for the law covering local governments. It's long overdue.

A bill by Assemblymen Ross Johnson, R-Fullerton, and Lloyd Connelly, D-Sacramento, not only would strengthen existing requirements that local governments notify citizens of actions they plan to take, but it would also impose penalties on governments that fail to comply.

Under the existing Brown Act, passed in 1953, local legislative bodies such as city councils, school boards, boards of supervisors, water districts and many special districts need only post notices of upcoming meetings. The Johnson-Connelly bill would require that they post specific agendas 72 hours before their meeting.

Perhaps most importantly, the bill would allow courts to invalidate actions taken at meetings that do not comply with the law.

The Johnson-Connelly collaboration came about after the Fullerton assemblyman learned of the unorthodox manner in which Los Angeles City Council members voted themselves a 10-percent pay increase last June. The pay-increase issue, known only as "item 53," did not appear on the council's agenda,

and was not discussed in an open meeting prior to the vote.

Although the increase was later voided because it exceeded a ceiling imposed in the Los Angeles City Charter, the judge in the case admitted that the council's vote was legal under the Brown Act.

That's just one example of the arrogant manner in which governments sometimes handle what is euphemistically called the "public's business." It's unfortunate that government officials seem to need constant reminding, but in order for a free society to remain free it is essential that people be fully aware of actions supposedly taken on their behalf, and that they have the power to nullify actions of which they were not made aware.

There may be no foolproof way to ensure that government business is conducted in the "open." And operating in the open is still no substitute for a more widespread conviction that many of the actions governments take are none of their business in the first place.

But if governments continue to arrogate power unto themselves, they should at least have some incentive to do so in public rather than behind closed doors. To this end, the Johnson-Connelly bill is a welcome and overdue contribution.

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Salinas, CA
(Monterey Co.)
Californian
(Cir. 6xW. 23,602)

JAN 17 1986

Allen's P. C. B. Est. 1888

A remedy to secrecy

Last year, the Legislature moved half-way toward toughening the state's open meetings law. This year, it should finish the job.

A bill signed into law last year allows citizens to sue to have actions of state agencies overturned if they violated the state's Brown Act. That act requires government bodies to make decisions in public and to post public notice of meetings.

Now, Assemblymen Lloyd Connelly, D-Sacramento, and Ross Johnson, R-La Habra, are sponsoring a bill that would apply similar standards to local government boards and councils.

The 32-year-old Brown Act has been a valuable wedge for the public and news media to use to gain access to public

business. But its value has been undermined by the fact that it carries with it little enforcement clout. The law carries no penalties unless criminal intent can be proven, which is nearly impossible.

So, if a citizen fights for access to a public meeting, he may win the satisfaction of having a court say he's right, that the law should be enforced. Then, the offending agency lets him into the next meeting, no penalties are issued, the decisions made secretly remain in force.

Allowing citizen suits to overturn secret actions would recognize the fact that, in a democracy, public participation is a mandatory part of the process.

Without it, an act has no validity, and the court should be allowed to say so.

LEGISLATIVE INTENT SERVICE (800) 666-1917



The Sacramento Union

THE OLDEST DAILY IN THE WEST
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Richard M. Scaife Publisher
John D. Bates General Manager
Bruce Winters Editor

Editorials

Toughen open meeting law

Last June, members of the Los Angeles City Council, without any notice to the public and without debate or discussion, unanimously approved "Item 53," an ordinance giving a 10 percent pay increase to themselves, the mayor and other top city officials. Mayor Thomas Bradley signed the ordinance the next day, but the resultant public uproar brought a law suit and a Superior Court judge overturned the council's action.

However, the judge didn't say the officials violated the state's open meeting law for local governments requiring advance notice and public discussion of agenda items. Thus did the court emphasize the toothless nature of the law, known as the Ralph M. Brown Act.

Now, however, a bill has been introduced to amend the law to require local entities to post specific agendas for meetings at least 72 hours before items are

acted upon. More importantly, it allows citizens to go to court to nullify actions taken in violation of the Brown Act.

Assemblymen Lloyd Connelly, D-Sacramento, and Ross Johnson, R-La Habra, are authors of the measure, indicating the bipartisan support for the bill (AB 267). Mr. Connelly was the author of a measure signed by Gov. Deukmejian last year adding similar enforcement provisions to the open meeting law covering state agencies.

The latest measure has broad support from law enforcement officials, but some local government officials don't like it because it impedes upon their "finality of action." This seems like a minimal problem compared with informing citizens about what their elected officials are voting for and letting citizens invalidate illegal actions of their government.



Van Nuys, CA
(Los Angeles Co.)
Daily News
(Cir. D. 135,010)
(Cir. Sat. 145,767)
(Cir. Sun. 122,031)

JAN 20 1986

Allen's P. C. B. Est. 1888

Editorials

No more secret raises?

No more stealth city councils? That remains to be seen. But at least it may be more difficult in the future for the Los Angeles City Council to raise its pay in secret, as it so adroitly did June 5.

Assemblyman Lloyd Connelly, D-Sacramento, introduced a bill Wednesday that would require city councils and other local governments to post specific meeting agendas to tell the public, in advance, what they are doing. Connelly said his measure (an amendment to the state's open-meeting law, the Ralph M. Brown act) was expressly designed to prevent actions like that of the Los Angeles City Council, which quietly voted itself a 10 percent raise over two years through an agenda item identified to the press and public only as "Item 53." Only after the fact did observers of the meeting realize what had happened.

The action was later overturned in court, but not because of secrecy. Superior Court Judge Irving A. Shimer noted that the council's conduct obviously violated the spirit of the Brown Act, but he had to grant that the act does not require notice of all actions to be taken at a given meeting — as long as the meeting itself is open. And this meeting was open, although a key part of the agenda was secret. So the raise was invalidated on the grounds the council took liberties with the City Charter provision allowing it no more than one 5 percent raise every year. By giving itself 10 percent at once to cover the next two years, the council had

given itself the second-year raise too early.

The council hardly seemed chastened by this setback. Later in the summer, it was found to be placing last-minute motions on the agenda almost routinely. On its meeting of Aug. 20, for instance, it brought out seven such surprise items; on Aug. 28, it acted on three zoning motions for which written copies were not even distributed to council members, much less the press. All this was legal, the city attorney's office said. If that was so, then clearly there had to be a change in the law.

Connelly's bill, AB 2674, would make the necessary revisions. Not only would it require agenda items to be posted in advance, but it would make that provision enforceable by allowing citizens to sue to have an unannounced council action overturned in court. The bill deserves bipartisan support and quick passage.

That's not to say it will ensure open government throughout the state. One bill won't close all the potential loopholes in the Brown Act, nor will it discourage secretive city councils and their sympathetic legal counsel from inventing new dodges. It's a constant struggle to keep public business open to the public, and the Brown Act, much amended since its original passage in 1953, probably will have to be revised again and again. But every time the Brown Act is tightened, local officials do have a tougher time finding ways to hide from the public. That's progress.



The Sacramento Bee

Locally owned and edited for 128 years

JAMES McCLATCHY, *editor, 1857-1883*

C.K. McCLATCHY, *editor, president, 1883-1936*

WALTER P. JONES, *editor, 1936-1974*

ELEANOR McCLATCHY, *president, 1936-1978*

Volume 258—No. 42,836

Monday, January 27, 1986

C.K. McCLATCHY, *editor*
GREGORY E. FAVRE, *executive editor*
PETER SCHRAG, *editorial page editor*
FRANK R. J. WHITTAKER, *general manager*

Editorials

Closed Votes At Open Meetings

On June 5, 1985, at a meeting of the Los Angeles City Council, Councilman Burt Snyder asked the council president for a suspension of the rules to take up item 53. That item had neither appeared on the council's agenda nor had it been posted in public. But there was no objection from other members, and the council president asked for discussion. When no member of the council wished to speak, the president called for a vote. Item 53, never identified and never read in public, passed without objection.

Not until the next day, when the mayor signed the ordinance, did the people of Los Angeles learn what the council had wrought: a 10 percent salary increase for council members, the mayor, the city attorney and the city controller. It was all perfectly legal.

That kind of conduct would be prohibited under AB 2674, by Assemblymen Lloyd Connelly and Ross Johnson. AB 2674 revises the

Brown Act, California's open meeting law, to require local agencies to post agendas for all regular and special meetings and to prohibit action on any item not on the agenda. Such requirements already exist for school and community college boards and state bodies.

And to put teeth into the Brown Act, the bill would also authorize private citizens and groups to sue local agencies that try to hide their actions. The courts would be given the authority to strike down actions taken without proper notice or at illegally closed local meetings. The Legislature last year passed a similar provision applying to state agencies.

Open meetings are vital to free government. But open meetings, by themselves, are not enough if local officials can obscure their actions. By removing the shadows where timid local governments now hide from public controversy, AB 2674 would strike a blow for accountability and responsiveness.



FACT SHEET: AB2674 (Connelly)

This bill proposes major amendments to the Ralph M. Brown Act (Government Code Section 54950 et. seq.; all citations are to the Government Code unless otherwise noted).

The Brown Act requires, with certain exceptions, that all meetings of legislative bodies of local agencies be open and public (Section 54953). A few examples of local legislative bodies subject to the open meeting requirements of the Brown Act are: city councils, county boards of supervisors, school districts and planning commissions. The meetings of many other local government entities are also covered by the Brown Act.

The Brown Act recognizes five kinds of meetings: regular meetings (Section 54954), special meetings (Section 54956), emergency meetings (Section 54956.5), adjourned meetings (Section 54955) and continued hearings (Section 54955.1). This bill pertains only to regular and special meetings.

The bill addresses the following two deficiencies in the Brown Act:

- 1) The Brown Act contains no meaningful notice and agenda requirements.
- 2) The Brown Act contains no meaningful remedy for violations. There is no mechanism by which actions taken in violation of the Brown Act can be declared "null and void."

In light of these shortcomings, this bill proposes adding the following two new sections to the Brown Act:

* Section 54954.2 - will require local legislative bodies to post a specific agenda of all items of business to be transacted or discussed at regular and special meetings no later than 72 hours prior to regular meetings and 24 hours prior to special meetings. No action may be taken on items of business not appearing on the posted agenda and no item may be added to the agenda subsequent to it being posted.

Some entities covered by the Brown Act are already subject to this "posted agenda" requirement. Specifically, school districts (Education Code Section 35145) and community college districts (Education Code Section 72121) are required to post agendas 48 hours in advance of regular meetings and 24 hours in advance of special meetings. (The Bagley-Keene Open Meeting Act, which regulates the meetings of state agencies, requires state bodies to mail a notice and specific agenda of all meetings to interested individuals 10 days in advance of meetings (Section 11125).)

* Section 54960.1 - will authorize private citizens and organizations to challenge the actions of local bodies taken in violation of two provisions of the Brown Act and have such actions declared "null and void." Specifically, actions taken in violation of Section 54953, which generally requires meetings to be open, and the above-described Section 54954.2, requiring posted agendas, will be subject to judicial challenge for a period of 30 days from the date the action was taken.



If the court determines that the challenged action was, in fact, taken in violation of either Section 54953 or Section 54954.2 of the Brown Act, it may declare such action "null and void." Presently, there is no mechanism by which the illegal actions of local bodies can be invalidated. It is a well-established rule that the Brown Act is not "mandatory", but, merely "directory." This means that actions taken in violation of the Brown Act are, nonetheless, valid; they may not be struck down as "null and void."

In essence, proposed Section 54960.1 makes the open meeting and posted agenda requirements of the Brown Act mandatory. (The Bagley-Keene Open Meeting Act already makes its open meeting requirement and more stringent agenda requirement mandatory (Section 11130.3).)

Lastly, in recognition of the need for finality of government actions, this provision of the bill exempts actions taken in substantial compliance with the requirements of the Brown Act from being declared "null and void."



1 Attorney, all City Council members, and the City Controller.
2 The matter of the salary increases was designated as item "53."
3 The salary ordinance was not on the Daily Council Printed
4 Calendar which affords the public prior notice of intended
5 Council business. The term "Item 53" did not appear on the
6 daily or supplemental printed calendar. The motion dealing
7 with the salary ordinance was not read aloud prior to the vote.
8 The salary ordinance was not read aloud by the clerk.

9 The ordinance was not posted nor placed where it could be
10 reviewed by the public prior to the time item "53" was called
11 up during the morning session by Councilman Snyder. The motion
12 to increase salaries and the ordinance providing for the same
13 and the O.S.A. Report were not distributed to the public or
14 news media prior to or during consideration and vote on the
15 matter on June 5, 1985.

16 There was no prior notice to the public that the Council
17 was to consider the salary ordinance during its June 5, 1985,
18 session. It is noted, however, that the Official Salaries
19 Authority Report was filed on May 22, 1985, and placed in the
20 City Clerk's File under No. 85-0918 -- this report was
21 available to the public prior to the proceedings that took
22 place on June 5, 1985. The dollar amount of salary increases
23 for each office were not included in the recommendations of the
24 Official Salaries Authority. The O.S.A. Report of May 22,
25 1985, recommended that the City Council "...enact an ordinance
26 granting the Mayor, City Attorney, members of the City Council
27 and City Controller the maximum salary increase allowable by
28 Current Charter provisions."



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As the evidence disclosed, there was no discussion on the motion by the City Council. Item 53 was distributed to council members in the course of its general deliberations without identification until such time as Councilman Snyder obtained the attention of the council's president, Pat Russell.

Although there was no discussion with respect to the motion and the ordinance dealing with their salary, the Court concludes that council members reviewed them during the 15 or 30 minutes the items were placed before them.

Item 53 was taken out of order after the council's president initialed approval with the knowledge that Councilman Snyder had indicated a desire that council rules be suspended with respect to item 53. In accordance with that request, the motion was stamped "Suspension Requested" and the following ensued:

"MS. RUSSELL: If there is no objection - ITEM 53. Is there any objection to suspension. If not, the matter is before us. Is there any discussion? Open the roll on Item 53. Close the roll.

CLERK: 12 Ayes.

MS. RUSSELL: That matter is approved.

MR. SNYDER: The ordinance Madam President - I have another roll call on the ordinance.

MS. RUSSELL: Open the roll on the ordinance.

MS. RUSSELL: Close the roll.

CLERK: 12 Ayes.

MS. RUSSELL: That matter. . .

MR. SNYDER: Forthwith to the mayor.

AP-13



1 MS. RUSSELL: Forthwith to the mayor. Next order, Madam
2 Clerk."

3 The practice of the council has been to direct the clerk
4 to identify the subject of the ordinance before a vote.
5 However, in this instance, the clerk was not requested to
6 identify the subject matter of the ordinance that was included
7 in item 53. Ten votes were required for the suspension of the
8 rules. Twelve votes were required for the approval of the
9 ordinance on its first reading and ten votes were required for
10 approval of salary increases of elected officials. The 12 Aye
11 votes cast met all of these requirements.

12 The council's actions were reported in the journal as
13 85-0918. The Digest of Council Calendar (Journal) is the
14 report of City Council actions published by the City Clerk
15 after each City Council session. It is not available to the
16 public until several days after the City Council actions have
17 taken place.

18 A member of the press requested and received copies of the
19 motion and the ordinance on June 5, 1985, and a story appeared
20 in the local paper on June 6, 1985. The Ordinance, increasing
21 salaries, was signed by the Mayor on June 6, 1985.

22
23 DISCUSSION

24 The City Council's action did not violate the Ralph M.
25 Brown Act (California Government Code §54950, et seq.).

26 The City Council's consideration of the motion and the
27 salary ordinance in a public place, during its regular session
28 and its members having cast their votes in public met the

1 minimum requirements of the Brown Act. The Court agrees with
2 defendants' position that the act does not require prior
3 distribution or posting of agendas, prior publication or
4 distribution of material to be considered, nor does it require
5 that matters be given a particular number or that they be
6 orally described prior to the taking of a vote.

7 The openness of the proceedings coupled with public
8 availability (provided on request) of documents and a written
9 record of what transpired is sufficient under the act. It is
10 said that the Brown Act attempts to strike a balance between
11 public knowledge about the legislative processes and the
12 efficiency of the processes.

13 Government Code §54957.5 states, in relevant part, that
14 agenda and other writings, when distributed to the legislative
15 body, are public records and shall be made available pursuant
16 to Government Code §§6253 and 6256. The essence of the latter
17 sections is that the documents or materials shall be made
18 available and provided upon request, which, as a practical
19 matter, is usually after the legislative body has acted.

20
21 The City Council complied with its procedural rules.

22 Rule 76 (Suspension) of rules adopted by the Los Angeles
23 City Council provides:

24 "These rules or any one thereof, except as provided in
25 Rule 32 and Rule 63 may be suspended by a vote of two-thirds of
26 the members of the Council."

27 Twelve votes were cast to suspend the rules although only
28 10 were required.



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Rule 63 provides:

"No ordinance shall be introduced for adoption by the Council except upon motion by one of the members thereof, Upon such ordinance being introduced, it shall be read the first time by the Clerk. Any member may withhold unanimous consent to the adoption of such ordinance at its first reading. If unanimous consent is withheld such ordinance shall be laid over for one week. An ordinance may be adopted at its first reading if approved by unanimous vote of all of the Council present, provided there shall not be less than 12 members present."

Section 26 of Article III of the Los Angeles City Charter (Mandatory Provisions) states: "No ordinance shall be passed finally on the day it's introduced, but the same shall be layed over for one week, unless approved by the unanimous vote of all the members present, provided there shall not be less than three-fourths of all members present."

The record discloses that the required number (12) were present and voted to pass the ordinance finally on the day it was introduced (June 5, 1985). It is noticed that the charter provision does not refer to a reading aloud or otherwise of the ordinance, although Council Rules appear to require such a reading.

The Court concludes that the City Council had the power to suspend its procedural rules and that the passage of the ordinance was accomplished within the mandatory provisions of Section 26 of the City Charter.

//

1 Government Code §54950 sets forth legislative intent with
2 respect to the conduct and openness of public agencies'
3 handling of public business. In relevant part it reads "It is
4 the intent of the law that their actions be taken openly and
5 that their deliberations be conducted openly."

6 Although the court has concluded that the City Council's
7 actions on June 5, 1985 met minimum requirements of the letter
8 of the law, it nonetheless failed to comply with the spirit of
9 the law as is set forth in Section 54950. A recently adopted
10 City Council practice requiring the Minute Clerk to read aloud
11 the title or synopsis of a measure sought to be passed "on
12 Suspension of Rules," will certainly inform Council members on
13 the one hand and on the other it will alert the public and the
14 media so that they will know what to request of its Council
15 since predistribution or prepublication of materials and notice
16 are not mandatory under these circumstances.

Suspension

17
18 Salary Ordinance No. 159926, increasing salaries
19 by 10% violates Article V, Section 65.6 of the
20 Charter of the City of Los Angeles.

21 The relevant portion of Charter Section 65.6 that is at
22 the heart of the dispute reads in part: "... however, that
23 once salaries have been initially established as provided in
24 this section, no increase in the annual salary for an official
25 shall thereafter be greater than five percent for each calendar
26 year following the operative date of the most recent change for
27 the salary for that office.

28 //

1 Although the court recognizes that the Charter provision
2 as set forth above is capable of several interpretations, as
3 the briefs and argument of counsel have demonstrated, it adopts
4 a common sense interpretation consistent with what the voters
5 had before them when Proposition T was submitted for a vote.

6 The court finds that the five percent limitation of
7 Section 65.6 is a limitation on the salary increase for each of
8 two years. (July 1, 1985 thru June 30, 1987). The court
9 concludes that the 5% limitation of Section 65.6 is a
10 limitation on salary increases available for each of the two
11 fiscal years. Charter Section 65.6 does not authorize
12 compounding of salaries, therefore the second year's 5%
13 increase shall not be compounded on the first year's increase.
14 The court expressly rejects defendants' contention that the 5%
15 limitation is only part of the calculation of the amount of
16 salary increases available for the ensuing two-fiscal year
17 period. An argument that employees' salaries are compounded is
18 not persuasive since the salary of elected officials is set by
19 Charter Section 65.6.

20 According to several reports, filed by the Official Salary
21 Authority, City officials are underpaid and should be paid more
22 than they currently receive. If that is so, the answer to the
23 problem is the submission of a new proposition that will amend
24 the Charter to increase salaries rather than strained
25 interpretations of the present charter provision in an attempt
26 to obtain a salary that was not voted by the electorate. The
27 court concludes that the ordinance increasing salaries is void.

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CONCLUSION

Consistent with this court's decision as set forth previously, it will order appropriate injunctions precluding the defendants from implementing a salary ordinance that provides more than a five percent increase for each year.

This court will issue its order that:

1. Ordinance No. 159926, which increased City officials' salaries by 10%, is void.

2. Defendants are permanently enjoined from disbursing salaries to public officials as provided for in Ordinance No. 159926.

3. Defendants are permanently enjoined from implementing any salary increase that is more than 5% for each year under Charter Section 65.6 as presently constituted.

4. Compounding of salaries is not provided for in City Charter Section 65.6 as presently constituted.

The matter of attorneys' fees shall be determined by this court pursuant to notice of motion provided for in Civil Code Section 1717.

Counsel for plaintiffs shall submit a judgment consistent with this court's ruling within 10 days.

In the event a statement of decision is requested, this intended notice of decision shall serve as a statement of decision as provided in California Rules of Court 232.

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Counsels' attention is directed to People v. Casa Blanca
Convalescent Homes, Inc. (1984) 159 Cal.App.3d 509.

DATED: NOV 0 4 1985

RAYMOND CARDENAS

Raymond Cardenas
Judge of the Superior Court

DISTRICT OFFICE
FORT BUTTER BUILDING
2702 K STREET SUITE 6
SACRAMENTO CALIFORNIA 95816
443 1183

CAPITOL OFFICE
STATE CAPITOL
SACRAMENTO CALIFORNIA 95814
445 2484

6/0
Assembly

California Legislature

COMMITTEES
WAYS AND MEANS
JUDICIARY
ENVIRONMENTAL SAFETY
AND TOXIC MATERIALS
AGING & LONG TERM CARE
SUBCOMMITTEES
CHAIR ADMINISTRATION OF
JUSTICE
STATE ADMINISTRATION
HEALTH & WELFARE

LLOYD G. CONNELLY
MEMBER OF THE LEGISLATURE
SIXTH ASSEMBLY DISTRICT



Contact: Gene Erbin
324-7593

For Immediate Release:
January 15, 1986

Brown Act To Be Toughened By Connelly Bill

Legislation that proposes major amendments to the Ralph M. Brown Act was introduced today by Assemblymen Lloyd Connelly (D-Sacramento) and Ross Johnson (R-Fullerton). The Brown Act generally requires that meetings of local entities, such as city councils and boards of supervisors, be open to the public.

"AB 267, does two things," said Connelly. "It requires local entities to post specific agendas for their meetings so that citizens can learn beforehand what business will be transacted and, secondly, allows citizens to go to court to have actions taken in violation of the Brown Act declared 'null and void'."

Presently, there is no law that requires specific agendas or permits the invalidation of illegal actions.

"This is an important bill because it puts sharp enforcement teeth into the Act. Right now, the Act is toothless," said Connelly.

The principal co-author of the bill is Assemblyman Ross Johnson (R - Fullerton). "This bill deserves bi-partisan support", said Johnson, "because it gives real meaning to the idea that citizens can participate in government and retain some degree of control over their own government."

A recent example of an egregious violation of the spirit of the Act which points out the need for this bill is the Los Angeles City Council's nearly

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secret decision to raise its own pay. When the pay raise was voted on, it was referred to only as "Item 53," no description of the motion was given, and it was not available in print prior to the vote. In a subsequent court ruling, the judge concluded that the Council's actions violated the spirit of the law but not the letter of the Act, precisely because of the deficiencies in the Act this bill corrects.

The bill is supported by the Attorney General, the California District Attorneys Association and several individual district attorneys. Common Cause is the sponsor of the bill.

"Why shouldn't the people have some form of minimal notice of the meetings of their local government?" asked Connelly. "Why shouldn't the people have some opportunity to invalidate the illegal actions of their government?"

AB 2674 is based on Connelly's AB 214 (Chapter 936 of 1985) that was signed into law last year. That bill added the "null and void" provision of law to the Bagley - Keene Open Meeting Act which governs the meetings of state agencies.



STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL

COPY

Feb. 13, 1986

Assemblyman Lloyd G. Connelly

A.B. 2674 - Conflict

The above measure, introduced by you, which is now set for hearing in the Assembly Local Government Committee appears to be in conflict with the following other measure(s):

A.B. 1001- McAlister

ENACTMENT OF THESE MEASURES IN THEIR PRESENT FORM MAY GIVE RISE TO A SERIOUS LEGAL PROBLEM WHICH PROBABLY CAN BE AVOIDED BY APPROPRIATE AMENDMENTS.

WE URGE YOU TO CONSULT OUR OFFICE IN THIS REGARD AT YOUR EARLIEST CONVENIENCE.

Very truly yours,
BION M. GREGORY
LEGISLATIVE COUNSEL

cc: Committee
named above
Each lead author
concerned

081

AP-23
85 93622-C

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AB 2674

Gene Ervin -

LA city Council voted themselves
a 10% pay increase in
June of 1985. - Item 53 - did
not appear on the Council
regular meeting and it was
not discussed in an open
mtg.

local
gov

puts teeth into open-mtg. act
by notify citizen of actions
they plan to take



amendments to

Thursday 10/03

What is "sudden" and "unexpectedly" - how literally is this interpreted?

"Serious harm"

"72" hour swing

Not practice on an daily basis

- Make formal finding
Am/Sen - bills added to the file

① What the problem is

LA City Council

Pasadena City Council -

Fontana - Mayor selected

Armit City - salary increase to top mgt.

Flight papers

Homeowners associations

LC city Charter provisions were found -083

AP-25



directory law not
no machine for private deposit
the action can not be
overturned. —

30 day limitation —
cure and correct

Illustrated in CEQA process
sure will render lawsuit
 moot

~~upon an affirmative~~
~~showing by the legislative~~
~~body that the defects~~
~~in the action have been~~
 ~~cured or corrected by~~
 ~~independent action of the~~
 ~~legislative body then shall~~
 ~~be dismissed without~~
 ~~prejudice.~~

→ Bagley-Keene act

~~Null & Void~~

down stream exposure?

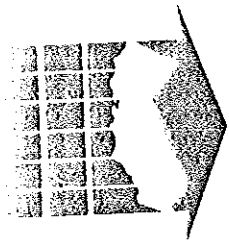
→ can't use



MEMO to:

Mary Mae Miller Em. 6031

date: 2-25-86



California Cities
Work Together

League of
California Cities

Mary - When you get this read,
you will be the Capitol's resident
expert on the Brown Act. Note pp
6 & 7 relating to a 1961 attempt
at voiding Brown Act violations.

from: *Paul*

1400 K STREET • SACRAMENTO, CA 95814 • (916) 444-5790

LEGISLATIVE INTENT SERVICE (800) 666-1917





League of California Cities

LEGISLATIVE HISTORY -- RALPH M. BROWN ACT* -- 1953-1975

I. 1953

- A. AB 339 (Ralph M. Brown et al) (Chapter 1588, Statutes 1953). AB 339 was introduced on January 8. A companion measure was introduced on January 17 by Senator Desmond -- SB 1552.
1. As introduced, Section 54954 required council meetings to be held within the boundaries of a city.
 2. As amended on April 3:
 - a. Section 54954 permitted meetings of irrigation districts to be held outside the boundaries thereof;
 - b. Amended Section 54956 to delete requirement that notice of the special meeting be delivered to each paper published within the boundaries of a city to substitute delivery to each paper requesting a notice in writing;
 - c. Amended Section 54957 to strike reference to "private meetings" and referring only to "executive sessions" and requiring a public hearing when requested by an officer or employee against whom charges had been made.
 3. AB 339 was substantially amended on May 1 in the Senate after having been approved in the Assembly with only the changes noted above. The May 1 amendments were as follows:
 - a. Section 54951 was amended to strike "public corporation" from the definition of local agency and to add the term "local" to make certain that the definition applied only to local public agencies. It wasn't until 1967 that a law similar to the Brown Act was adopted applying to state agencies. (Section 11120 et seq. of the Government Code)
 - b. Section 54954 was amended both to add "resolution or by-laws" as a means of establishing the conduct of meetings and also to provide that meetings were to be held within the jurisdiction of the local agency unless otherwise provided in the Act under which the agency was formed.
 - c. Section 54955 also was amended to permit action by "resolution or by-laws."

*Government Code Sections 54950-54961

AP-28

- d. Section 54956 was amended to add "radio and television stations" to media required to be notified upon written request of special meetings.
- e. Section 54957 was substantially revised and instead of providing "An executive session shall not be held except to consider etc." to read as the section now does "Nothing contained in this chapter shall be construed to prevent etc.," and an executive session could be held for the purpose of exercising "administrative functions."

4. As further amended on May 11:

- a. Section 54954 was again changed with respect to the place of meeting to state that it "need not be held" within the boundaries of the agency unless the Act under which formed required the meeting to be within such boundaries.
- b. A paragraph was added to Section 54956 to authorize special meetings on 3-hour notice in the event of a disaster.
- c. Section 54957 was further changed to delete authority to hold an executive session for the purpose of performing "administrative functions" and to add any "person" to those who might make complaints or charges against officers or employees.

5. On May 27 AB 339 was again amended:

- a. Section 54953 would have added a definition of meeting to read: "As used in this chapter, a meeting is any called or arranged for meeting of a majority of the members of the governing body of any local agency at which matters for it or any pending meeting of such agency are discussed or at which time any test or other type of vote is taken whether by voice vote or by roll call at such meeting."
- b. Section 54956 was changed to delete any provisions for a special disaster emergency meeting and its accompanying 3-hour notice.
- c. Section 54957 was amended to pluralize executive session.

- 6. The final amendment on June 3 deleted the proposed definition of a meeting from Section 54953 and the bill was passed and approved in this final form with Sections 54950 to 54958. All of the sections of the Brown Act with a decimal point and six numbers were added after 1953 and all of the original sections except Sections 54950, 54953, 54954 and 54958 have been amended at least once.

B. SB 1552 (Desmond). As noted above, this was a companion bill introduced on the Senate side. There was no action on the Senate bill.

COMMENT: Assemblyman Ralph M. Brown, author of the Act which later was to bear his name, was Chairman of an interim committee reporting on the abuse of public meeting laws and the lack of public meeting requirements for a wide variety of local governmental agencies other than cities or counties. The statement of legislative intent found in Section 54950 was written by Michael Harris, a San Francisco Chronicle reporter, who had written a series of articles about secret sessions of local governmental bodies, particularly school districts and sanitation boards. The bill was

co-sponsored and fully supported by the League of California Cities and the California Newspaper Publishers Association. The significance of the attempt to broadly define "meetings" as any gathering to discuss public matters and to abandon such definition appears to have escaped comment by the courts in any of the later decisions. As approved in 1953 the Act provided:

"54950.* 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.

54951. As used in this chapter, 'local agency' means a county, city, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

54952. As used in this chapter, 'legislative body' means the governing board, commission, directors or body of a local agency, or any board of commission thereof.

54953. 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.

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

54955. The legislative body of a local agency may adjourn any regular or adjourned meeting to a time and place specified in the order of adjournment. When so adjourned, the adjourned meeting is a regular meeting for all purposes. When an order of adjournment of a regular or adjourned meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified by ordinance, resolution, by-laws, or whatever other rule is required for regular meetings.

54956. A special meeting may be ordered 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 personally or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice. The order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered ~~088~~ such meetings by the legislative body. AP-30



"54957. Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding executive sessions to consider the employment or dismissal of a public officer or employee or to hear complaints or charges brought against such officer or employee by another public officer, person or employee unless such officer or employee requests a public hearing. The legislative body also may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

- 54958. The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law." *Government Code

II. 1955

A. AB 1386 (Ralph M. Brown) (Chapter 760, Statutes 1955).

1. Revised Section 54955 to refer expressly to adjourned regular or adjourned special meetings and to provide for the clerk to adjourn a meeting to a stated time and place in the event all members were absent. Also provided for notices similar to those provided for in Section 54956.
2. Amended Section 54956 to refer to "called" meetings rather than "ordered" meetings.
3. Last three sentences of Section 54956 were added relative to dispensing with written notice.

B. AB 1387 (Ralph M. Brown) would have amended Section 54957 to permit an executive session to discuss and consider the acquisition of school sites and other real property for school purposes. There was no action on the bill.

✓ C. AB 2161 (Doyle) would have added Section 54959 to the Act to permit the photographing and televising of the proceedings of a legislative body of a local agency. It was opposed by most local governmental agencies and failed to receive committee approval.

✓ COMMENT: The technical amendments proposed by AB 1386 were sponsored and supported by the League at the request of bond counsel. No further attempt has been made to push legislation similar to AB 2161. However, ten years later in Nevens v. City of Chino, 233 C.A. 2d 775, the court held that prohibiting tape recordings of council proceedings was unreasonably restrictive.

III. 1957

A. AB 227 (Luckel) (Chapter 85, Statutes 1957).

1. Added Section 54953.3 to the Brown Act because of a regulation adopted by the City Council of the City of San Diego which required all persons attending council meetings to register and to indicate who they were representing. There were no amendments to the bill during the course of its passage and no opposition. The author was a Coronado and San Diego Assemblyman.

B. AB 2405 (Ralph M. Brown) (Chapter 1314, Statutes 1957) was a League-sponsored bill amending Section 54957 to add "appointment" of public officers or employees as well as "employment" because of unduly restrictive interpretations placed on the language of the section by some attorneys. ✓

C. AB 3518 (Britschgi & Francis) would have:

1. Amended Section 54957 to permit executive sessions to consider the "settlement of any claim, the appraisal or acquisition of any property, preliminary reports from chief executive or administrative officers," as well as the appointment, employment or dismissal of a public officer.
2. Amended Section 54958 to include charter cities and to provide that the Brown Act did not apply to joint sessions of legislative bodies of two or more local agencies. The "appointment" provision was included in AB 2405 and strong editorial opposition to the bill from their home town papers discouraged the authors who permitted the bill to die without a hearing.

COMMENT: AB 227 arose out of a special situation and AB 2405 out of an unduly restrictive interpretation of existing law. Neither bill had any opposition and neither made any major change in the original intent of the Brown Act. Notwithstanding the original opposition to the Brown Act on the part of some local governmental agencies, two years later we found very little support for AB 3518 which would have made changes of some substance.

IV. 1959

- A. SB 1115 (Holmdahl) (Chapter 1417, Statutes 1959) amended Section 54951 to add after the word "city" the language "whether general law or chartered." ✓
- B. AB 1287 (Luckel) (Chapter 647, Statutes 1959) again amended Section 54955 to require the "posting of notice of the order of adjournment at or near the door of the place where the adjourned meeting had been held." AB 1287 also amended Section 54957 to make it clear that executive sessions were to be held "during a regular or special meeting."
- C. AB 2181 (Reagan & Ralph M. Brown) would have amended Section 54952 to include within the definition of legislative body a "committee or advisory committee" thereof. The bill was heard and defeated.

COMMENT:

1. It was generally conceded by all but a few public attorneys that the Brown Act applied to charter cities and the League supported Senator Holmdahl's amendment to expressly include charter cities. Senator Holmdahl had been an Oakland Councilman prior to his first election to the Senate. In Adler v. Culver City, (September 1960) 184 C.A. 2d 763, 768, the court while finding it unnecessary to decide the applicability of the Brown Act to charter cities, included a lengthy footnote referring to authorities on both sides of the question including opinions of the Legislative Counsel who had ruled both ways on the question. The applicability of the Brown Act to charter cities at this time is universally accepted.

2. AB 1287 was another bill sponsored and supported by the League at the request of bond counsel. There was a division of opinion on whether executive sessions had to be held during a regular or special meeting. The Brown Act was clarified to require executive sessions to be held during a regular or special meeting and this language conformed to the opinion generally held by most city attorneys.
3. After a hearing and a considerable amount of opposition from local government generally, AB 2181, which would have extended the Brown Act to committees and advisory committees, was referred to interim committee for further study. This was the first of the many bills which have attempted to extend the Brown Act to subcommittees or committees of less than a quorum of the legislative body and should be distinguished from AB 363 (1961), as approved by the Assembly, which had nothing to do with such committees or subcommittees. No further action resulted from such reference.

V. 1961

A. AB 127 (Luckel) (Vetoed).

1. AB 127 was introduced on January 5 less than two months after the Supreme Court denied a hearing of Adler v. City of Culver City. As introduced on January 5, AB 127 would have amended Section 54953 to add "Meetings shall be open even if held solely for the purpose of discussion, and no action is to be taken or no decision is to be made on the subject under consideration." New Sections 54959-54961 would have been added to read:

"54959. No meeting of the legislative body of a local agency shall be closed to members of the public on the ground that matters relating to pending, proposed, or anticipated litigation are to be discussed at the meeting, or that a public discussion of the subject to be considered would result in an advantage to an adversary of the people or in a detriment to the public. The only exceptions to the law established by this chapter, that meetings of the legislative bodies of local agencies shall be open to the public, are those contained in Section 54957.

Sec. 3. Section 54960 is added to said code, to read:

54960. Each member of a legislative body who attends a meeting held in violation of any provision of this chapter is guilty of a misdemeanor.

Sec. 4. Section 54961 is added to said code, to read:

54961. Any interested person may commence an action either by mandamus or injunction for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency."

2. As a result of vigorous League opposition, the bill was completely amended on March 2 to delete entirely the amendment of Section 54953 and the addition of Section 54959 and to provide in lieu thereof an amendment to Section 54952 stating "Legislative body includes, but is not limited to, planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local



agency." A new Section 54959 also was added providing "Any action taken at any meeting other than a regular or special meeting provided for by Sections 54954, 54955, and 54956 shall be void."

3. AB 127 was next amended in the Senate on March 20. In lieu of amending Section 54952 and changing the definition of legislative body as noted above, a new Section 54952.5 was added with respect to planning and other permanent boards and commissions.
4. On April 17 two major amendments were made:
 - a. Adding Section 54952.6 defining "action taken" as it currently reads; and
 - b. Amending Section 54960 to make it clear that a member of the legislative body would be guilty of a misdemeanor only if the member attended a meeting where action is taken and where the member had knowledge that the meeting was in violation of the Brown Act. In that form the bill went to the Governor but was vetoed because of the section making actions taken in violation of the Act void. The Governor indicated he would sign a bill similar to AB 127 if the section making actions void was deleted.

B. AB 363 (Busterud & Ralph M. Brown) (Chapter 1671, Statutes 1961).

1. AB 363 was introduced to take care of a problem in San Francisco involving a private nonprofit corporation having a board of governors which included members of the San Francisco Board of Supervisors and which was supported by city and county funds. As introduced, it would have included a new paragraph in Section 54952 to read:

"It also includes any board, commission, committee, or other body organized and operated by any private organization if the membership of the body is composed in part of public officers and the activities of the body are supported in whole or in part by public funds."

2. The bill was amended on February 24 to narrow its scope and to add to the definition of legislative body the language which now appears in Section 54952 after the words "commission thereof." Also added was the second paragraph of Section 54957. Local government had opposed the bill as introduced but withdrew its opposition after the February 24 amendment.
3. AB 363 was again amended in the Senate on May 9 and became a League-supported bill to include all of the provisions of AB 127 except the one section objected to by the Governor in his veto of May 5.

C. AB 663 (Winton) (Chapter 115, Statutes 1961) added Section 59450.5 designating the public meeting law as the Ralph M. Brown Act.

COMMENT:

1. It should be clearly noted that AB 127, as introduced, would have reversed two major holdings of Adler, both with respect to the fundamental nature of a "meeting" and the attorney-client privilege. Because of major opposition by local government, Assemblyman Luckel completely altered his bill and instead



of opposition it enjoyed full city support in its amended form. The following explanation of the bill was used by the author on the floor of the Assembly to explain the measure to the other members at the time of voting on its passage.

"A.B. 127 amends the Brown Act relating to meetings of local legislative bodies. The bill in its original form was opposed by many city councils, boards of supervisors and other local legislative bodies because it would have extended the Brown Act to discussions by a majority of the members of such legislative bodies regardless of the time or place of the discussions, and whether or not there was in fact an actual meeting. This provision has been deleted from the bill. In addition, A.B. 127 in its original form would have extended the Brown Act to the attorney-client relationship and this provision has also been deleted from the bill. In its amended form A.B. 127 does only four things:

1. It makes it clear that the Act applies to such local boards and commissions as Planning Commissions, Library Boards and Recreation Commissions,
2. It provides that any action taken at any meeting other than a regular, special or adjourned regular or special meeting is void,
3. It makes statutory the decision of the District Court of Appeal that action taken in violation of the Brown Act is a misdemeanor, and
4. It authorizes interested persons to bring an action to enjoin violation or the threatened violation of the Act.

While the bill in its original form was opposed by the representatives of local government, in its amended form it is supported by both the California Newspaper Publishers Association and the representatives of counties, cities and districts."

2. The Governor's veto of AB 127 stated:

"I believe that this bill would seriously imperil the finality of all local legislative decisions. The bill provides that any action taken at a nonpublic meeting, defined in the bill as any 'collective decision ... or collective commitment or promise ...', is void. Presumably this would also mean that any such decision merely ratified at a public meeting would also be void. As a result disgruntled persons unhappy with a decision of a local legislative body could attack it, whether with merit or not, in court thereby delaying and obstructing all action. The consequences for bond resolutions, for example could be paralyzing.

I do not believe there is a need for such a drastic remedy. I refuse to believe that there is any widespread violation of the present law requiring public meetings by municipal and local officials of this state. In my judgment this bill would effectively obstruct progressive local legislation without any corresponding benefit.

Accordingly, I am returning the bill without my signature."

3. The availability of AB 363 in the Senate made it possible shortly after the veto to reenact all but the objectionable provision of AB 127. In considering the provisions of AB 363 prior to the insertion of the unobjectionable portions of AB 127, the two amendments to the two separate sections, 54952 and 54957, should be read as one in order to clearly understand that all of the new language applied to private corporations and not public entities. The



AP-35

failure to recognize the purpose of AB 363 prior to insertion of AB 127 can lead to the conclusion that committees are covered by the Brown Act.

4. The length of this comment is occasioned by the extremely unusual opinion of the Attorney General issued two years after the 1961 legislation and the Adler decision. It is unusual for an opinion of the Attorney General to issue "policy" opinions which fly in the face of decisions of the district court of appeal and statutes of the Legislature. Quite obviously the Attorney General and the Deputy who prepared the opinion disagreed with the decision and the legislation and made a rather lengthy attempt to discredit both, the decision of the court and the intent of the Legislature. See 42 Ops. Atty. Gen. 61-69. The Senate Committee on Local Government under the Chairmanship of Senator Joseph A. Rattigan revised AB 127 and took the language of the definition "action taken" directly from Adler so that the 1961 legislation was designed to make statutory that portion of Adler (page 767) which clearly indicated that no actions, commitments or promises, or suggestions of actions, commitments or promises were made. The definition was intended to confine meetings to gatherings where action was taken. Any clear and impartial analysis of Adler and the 1961 legislation could not reasonably conclude that the major conclusions of Adler had lost their force. The definition of legislative body to include planning commissions did not "repudiate" Adler but rather changed the law to expressly include planning commissions.

VI. 1963

- A. AB 2334 (Marks) was introduced on April 9 and would have added a new Section 54953.1 to read:

"All meetings of any committee or subcommittee of a legislative body, whether or not composed of a quorum of the members of the legislative body, shall be open and public, and all persons shall be permitted to attend any meeting of such committee or subcommittee, except during consideration of the matters set forth in Section 54957."

Assemblyman Marks as Chairman of the Assembly Committee on Government Organization held hearings in Los Angeles on December 11, 1963, on the bill which had been referred to interim committee for study.

- B. AB 2842 (Veysey) introduced on April 25 would have permitted local agencies to consider the acquisition of real property in an executive session. The bill was approved by the Assembly after being amended to limit its application to school property but it failed to receive approval in the Senate and it was referred to the Rules Committee for further study.
- C. AB 3027 (Barnes & Ashcraft) would have required a certified court reporter for all meetings of local agencies having a population over 300,000 and if a request was made in advance of such a meeting for the presence of a certified court reporter for all proceedings of local agencies under 300,000 population. A tape recording in lieu of a certified court reporter was permitted by the bill but was opposed and defeated by local government.



COMMENT:

1. AB 2334 was the first of the attempts by Assemblyman (now Senator) Marks to extend the Brown Act to committees or subcommittees of less than a quorum notwithstanding the language in Adler approving the opinion of the Attorney General which stated "Such committees are mere instrumentalities of the governing agency and their determinations are not the determinations of the agency ... in those cases the findings of such a committee have not been deliberated upon by a quorum of the legislative body and the necessity, as well as the opportunity, for full public deliberation by the legislative body still remains. Thus, the public's rights under the secret meeting law are protected." (Adler v. Culver City, 184 C.A. 2d 763, 771)
2. AB 2842 was one of two attempts to include property acquisition as a matter which could be considered in executive session to avoid taxpayers paying premium prices for needed public lands. While AB 2842 was approved by the Assembly, no serious effort has been made since to include such an exception even though it is one common to other public meeting laws in other states. In critical cases where litigation is clearly anticipated in connection with such property acquisition, the matter has been discussed in executive session because of the anticipated litigation exception.

VII. 1965

A. AB 295 (Petris), as introduced on January 14, would have:

1. a. Amended Sections 54951 and 54952 to clarify the ambiguous dual reference to "boards and commissions" in definitions of both "local agency" and "legislative body."
- b. Added a new section defining "meeting" as follows:
"As used in this chapter, 'meeting' means a gathering of members of a legislative body during which either (1) deliberations concerning the governmental function of said body take place, or (2) action is taken. This definition shall not be construed to be limited to such occasions as when the body meets formally or takes some official action."
2. On May 24 the Assembly again amended AB 295 to strike from the definition of meeting the word "means" and insert, in lieu thereof, "includes, but is not limited to," a gathering etc. On June 3 the Assembly refused passage of AB 295 by a very substantial vote of 45 (no) to 18 (aye).

B. AB 793 (Petris) was introduced on February 3 to add a new sentence to Section 54957 (executive sessions) stating "The reasons set forth in this section shall be the only reasons for which executive sessions may be held." No action was taken on the bill.

C. AB 946 (Marks), as introduced on February 8, would have:

1. Added a new Section 54953.1 making the Brown Act applicable to committees or subcommittees whether or not composed of a quorum of the legislative body.

2. Amended Section 54957 to require 24-hour notice to any officer or employee that he was entitled to a public hearing on any charges brought against him.
3. Included in the same section was express authority to consult with the legislative body's counsel, but only if the consultation related to litigation in which the agency was a party and disclosure would be detrimental to the public interest.
4. Added Section 54957.1 to require all executive sessions to be held only during regular or special meetings. Notice of the matter to be discussed would be required and action taken in the executive session recorded in the minutes.
5. AB 946 was amended in the Assembly on March 23 and again on April 15 to:

- a. Provide that all of the provisions of the chapter should be liberally construed for the accomplishment of the purposes set forth in Section 54950.
- b. Limit the application of the proposed amendment to committees or subcommittees of two or more members of the legislative body.
- c. Permitting the legislative body to deliberate in executive session after holding a public hearing on complaints and charges brought against officers and employees.
- d. Deleting the requirement for the recording of minutes in an executive session.

The bill passed the Assembly in this form and was debated at length in the Senate Committee on Local Government where it was defeated.

- D. AB 1498 (Knox) (Chapter 469, Statutes 1965) added Section 54955.1 relative to continuance of hearings by legislative bodies. AB 1498 was approved as it now reads without amendment and without opposition.
- E. AB 1511 (Veysey) would have added a new Section 54957.1 to include school property acquisition as an exception to the public meeting requirement. The bill was amended once to make Section 966 of the Education Code applicable. It was then rereferred to Rules for study.
- F. AB 2688 (Marks) would have added a new section declaring any action taken in violation of the Brown Act to be void excepting action on public securities. While the bill was approved by the committee, it was moved to the inactive file by the author when it was clear that it would be defeated if he brought it to a vote on the floor.

COMMENT:

1. AB 295 was badly defeated as indicated above on the floor of the Assembly. It is clear that the bill was debated and defeated only after a full understanding of its provisions by the members of the Assembly. In any litigation involving the Brown Act and the different interpretation reached by the courts in Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, 263 C.A. 2d 41 and Adler v. Culver City, 184 C.A. 2d 763, this legislative action should be noted. It was far more than mere failure of the Legislature to act.



2. Assemblyman Marks' AB 946, although approved by the Assembly, was defeated by the Senate Committee on Local Government after a full and somewhat bitter hearing and again it indicated a clear policy on the part of the Legislature to refuse to amend the Brown Act so as to make it impossible to conduct the public's business.
3. The action of Assemblyman Marks in placing AB 2688 on the inactive file and permitting it to die after having been approved by committee was taken only because of the opposition of local government and the fact that the members of the Legislature were fully aware of the danger of approving legislation which would cast a cloud on the validity of all actions of local legislative bodies.

VIII. 1967

A. SB 133 (Carrell) as introduced on January 25 would have:

1. Required the Brown Act to be liberally construed to accomplish its purposes.
2. Made the Act applicable to committees or subcommittees of a legislative body composed of two or more members thereof.
3. Required notice in writing to officers or employees against whom charges had been made of their right to a public hearing.
4. Permitted consultation with a public agency counsel in executive session if the agency was a party to litigation or a claim had been filed against it and public disclosure would be detrimental to the public interest.
5. Required all executive sessions to be held during a regular or special meeting and the subject matter to be discussed announced at the time the executive session was called.
6. A positive requirement that any deliberation on matters other than those expressly excluded by statute. There were several hearings on the bill which was opposed generally by local government. It died in committee.

B. AB 245 (Bagley) was introduced on the same day as SB 133 and was an identical companion measure. It too had extensive hearings and opposition but was amended on May 26 to delete all reference to the Brown Act and to apply solely to public meetings of the Board of Regents of the University of California.

C. AB 2041 (Bagley), introduced on April 10, would have expanded Section 54957 to permit an executive session to conduct an evaluation of the performance and ability of individual officers and employees. Such evaluations could not be undertaken more than once a year. There was no action on the bill.

✓ D. AB 2271 (Milias) (Chapter 1384, Statutes 1967) was introduced on April 11 as a spot bill and was amended on May 18 to add Section 54951.1 to include within the definition of "local agency" private organizations receiving money under the Economic Opportunity Act of 1964. A Senate amendment on June 27 limited its applicability to "nonprofit" organizations.



- E. AB 2289 (Cory), introduced on May 11, would have amended Section 54956 to permit a "waiver" by newspaper, radio and television stations of the notice of special meetings. There was no action on the bill.

COMMENT: Although there was a considerable amount of activity on SB 133 and AB 245, the activity was confined to hearings, cancellation of hearings and a very large amount of correspondence from local government opposing the bills. The legislation which was debated and defeated clearly indicates that little weight had been given to 42 Ops. Atty. Gen. 61.

IX. 1968

- A. AB 202 (Hayes) (Chapter 1297, Statutes 1968), as introduced on January 23, added Section 54952.3 to extend the definition of legislative body to include "any advisory agency, board, commission, committee or other advisory body of a local agency where public funds or personnel are used in connection with the work of such advisory body." The bill was amended on February 27 to require creation by some formal action of a local agency and applying to an advisory agency using the facilities, equipment, materials or supplies of a local agency. It was approved in this form by the Assembly over the objection of local government and rereferred to the Senate Rules Committee where it was completely rewritten and amended on July 18 and again on July 26 to read as in its present form.
- B. SB 306 (Sherman) would have added Section 54957.5 to permit executive session consideration of the qualifications and selection of architects and auditing firms. There was no action on the bill.
- C. SB 574 (Dymally), introduced on March 12, would have added a new section requiring the minutes to contain a "statement signed by the presiding officer that no meetings of the body have been held in violation of the Ralph M. Brown Act." The bill was defeated in the Senate Committee on Governmental Efficiency.
- D. SB 592 (Burgener) (Chapter 1272, Statutes 1968), as introduced on March 12, related only to schools and would have permitted a school board to consider in executive session employer-employee relations matters. This was limited by an amendment on May 10 to salaries, salary schedules and fringe benefits. On June 17 the bill was again amended adding Section 54957.6 to the Brown Act to apply to the legislative bodies of all local agencies. On June 20 the word "negotiations" was deleted and "discussions" substituted in keeping with the Meyers-Miliias-Brown Act and on July 1 it was amended to include the limiting language that had been adopted in the May 10 amendment -- salaries, salary schedules and fringe benefits. There were other minor amendments prior to its approval by the Legislature.
- E. SB 717 (Marks) would have amended Section 54952 to extend its provisions to committees, advisory committees and subcommittees. It failed to receive committee approval.

COMMENT:

1. AB 202, by Assemblyman Hayes, passed over the objection of local government by the Assembly, was referred to the Senate Rules Committee rather than to a policy committee and it would have died in that committee except that the author finally agreed to a complete revision of the bill and, as revised, representatives of



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local government withdrew their objections to the bill. The bill was introduced by Assemblyman Hayes in order to have the Brown Act apply to an advisory committee on Economy and Efficiency appointed by the Los Angeles County Board of Supervisors. The sweeping language of the bill as introduced would have applied to every conceivable type of citizens advisory committee. After Mr. Hayes agreed to the revision before the bill in its revised form was approved by the Senate Committee on Rules and the Senate and the amendments concurred in by the Assembly, Mr. Hayes inserted in the Senate and Assembly Journals for August 2, 1968, a communication indicating the author's intent in drafting one of the paragraphs included in the revision. The paragraph reads:

"Legislative body as defined in this section (54952.3) does not include a committee composed solely of members of the governing body of a local agency which are less than a quorum of such governing body."

Mr. Hayes' statement said: "The reason was that such committees of the governing body of a local agency are covered by another section of the Ralph M. Brown Act, Government Code Section 54952." Senator Hugh M. Burns, President Pro tem and Chairman of the Senate Committee on Rules, thereafter inserted the following statement in the September 11, 1968, Senate Journal:

"A communication relative to AB 202 was printed in the Assembly Journal on August 2, 1968, at the request of the author, Assemblyman James A. Hayes, and in the Senate Journal on the same date on motion of Senator George R. Moscone, who handled the bill for Assemblyman Hayes on the floor of the Senate. The communication expressed the intent of the author in drafting the following paragraph:

"'Legislative body' as defined in this section does not include a committee composed solely of members of the governing body of a local agency which are less than a quorum of such governing body.'

As Chairman of the Senate Committee on Rules to which AB 202 was referred, I wish to make it clear that the intent expressed in the communication was not the intent of the Senate. Our committee was opposed to AB 202 in the form in which it was referred to us and the committee approved it only after it had been completely rewritten.

The definition of 'legislative body' was included at the request of the opponents, not the author, on the grounds that the Brown Act does not apply to committees composed of less than a quorum of the governing body, and the authority for this position is contained in the opinion of the District Court of Appeal in Sacramento Newspaper Guild v. County of Sacramento, 263 C.A. 2d 43, wherein the court states after quoting Section 54952 (also referred to in Assemblyman Hayes' communication);

'The trial court limited the injunction to board and committee meetings of three or more members. At this point the injunction parallels an opinion of the Attorney General holding the public meeting requirement inapplicable to those committees composed of less than a quorum of the parent body (32 Ops. Cal. Atty. Gen. 240). That phase of the injunction is not in dispute.'

Assembly Bill No. 202 as entirely rewritten and approved by the Senate Rules Committee would not apply to an advisory committee created or named by the mayor or to any other committee named by a public officer, but would apply only to advisory bodies created by formal action of



"the governing body. The act would not apply at all if the advisory committee found it necessary to meet outside of the territory of the public agency in order to gather facts or other information. More importantly, it expressly provides that the section will not apply to committees of the governing body composed of less than a quorum of the governing body. In addition, the procedural provisions of the Brown Act are not applicable to such advisory groups."

2. Although Senator Burgener's SB 592 originally applied only to school districts, it was amended at an early date to include other public agencies. One of the last amendments in the Assembly made it perfectly clear that this authority to meet in executive session with designated representatives was narrowly limited to consideration of salaries, salary schedules, and compensation paid in the form of fringe benefits. The language was deleted which would have permitted broad discussion of matters within the scope of representation and subject to consultation or discussion.

X. 1969

- A. AB 2297 (Bagley) (Chapter 494, Statutes 1969), as introduced on April 8, would have repealed Section 54959 (misdemeanor penalty), added and re-numbered sections to provide for bringing an action for "declaratory relief" and made attendance in violation of the Act "misconduct in office." The bill also would have permitted a proceeding in quo warranto for removal from office and authorized a court to set aside action taken in violation of the Brown Act. Before the bill was approved by the Assembly, the quo warranto proceedings were deleted and in the Senate as finally amended on June 13, the only change made in then existing law was simply to authorize an action for declaratory relief.
- B. SB 312 (Marks) would have amended Section 54952 to include committees or subcommittees. This was similar to earlier bills by Senator Marks but after hearings there was no committee approval.
- C. SB 314 (Marks) would have added Section 54957.7 stating in effect that each member who attends an executive session shall sign an affidavit under penalty of perjury that the only matters to be discussed were those within the scope of the executive session. The affidavit would have been a public record open for public inspection. The bill was vigorously opposed by all governmental agencies because of the ridiculous requirement that each member sign an affidavit each time that he hadn't violated the law. An amendment on April 17 applied only to state agencies. The bill was refused passage by the Senate Committee on Governmental Efficiency.
- D. SB 538 (Schmitz) would have added to Section 54959 "who wilfully" attends such meeting and deleted "with knowledge of the fact that the meeting is in violation" of the Brown Act. The bill was introduced by Senator Schmitz at the suggestion of Orange County prosecuting officials who felt that existing law made it too difficult to prosecute violators.

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XI. 1970

- A. SB 874 (Marks) would have amended Section 54952 to include committees and subcommittees. The Senate committee again refused to approve.

- B. SB 876 (Marks) would have added Section 54957.8 requiring each member of a legislative body attending an executive session to file an affidavit under penalty of perjury that the only matters discussed at the meeting were those within the scope of the executive session. On May 7 the bill was amended to require the affidavit to be signed by the executive secretary or the presiding officer rather than each member. The bill was again amended on May 15 to include the "clerk" as one of the persons who would sign such an affidavit. The bill was again defeated by the Senate Committee on Government Organization.
- C. SB 1034 (Bradley) would have amended Section 54957 to permit consideration in executive session of matters involving the acquisition or disposition of property. There was no action on the bill.
- D. AB 981 (Mulford) (Chapter 1610, Statutes 1970) added Section 54957.9. The bill was amended several times and was substantially revised in the Senate prior to its approval. The need for the measure arose out of the inability of the Berkeley City Council to hold meetings wilfully interrupted by several hundred persons.
- E. AB 1145 (Bagley & Hayes) would have added a new section requiring the legislative body prior to holding an executive session to publicly announce the reasons for, and the subject of, such meeting. The bill was subsequently amended to require the announcement to indicate statutory authorization for such an executive session or that the meeting was to be closed because of the attorney-client privilege.
- F. AB 1319 (Bagley) (Chapter 388, Statutes 1970) added Section 54961 prohibiting public agencies from holding any public meetings, conferences or other functions in any facility that prohibited admission of any person on the basis of race, religion, color, national origin, ancestry or sex. Refusal of a local Sacramento men's club to admit an Assemblywoman to a luncheon meeting was the immediate cause of the bill although there were other instances of similar discrimination by other clubs which brought about the passage of the measure.
- G. AB 2087 (Z'berg) would have excluded from public discussion matters exempted from the Public Records Act (Section 6250 et seq. of the Government Code). The bill was subsequently amended to apply only to publicly owned utilities and to the discussion of trade secrets. The measure died in the Senate.
- H. AB 2442 (Moretti) (Chapter 710, Statutes 1970) added Section 54951.7 to include nonprofit corporations created under the Joint Powers Act within the Brown Act. There was only one minor amendment during the passage of the bill which was approved by the Legislature without opposition.

XII. 1971

- A. SB 833 (Holmdahl) (Chapter 587, Statutes 1971) amended Section 54957 to permit executive sessions with the Attorney General, district attorney, sheriff, chief of police or their deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities. The bill was approved without opposition after being amended to refer to specifically designated officials rather than peace officers generally as defined in the Penal Code.

- B. SB 1190 (Marks) was introduced on May 14 to include committees or subcommittees whether composed of "more or less than a quorum" within the definition of "legislative body." The bill was amended on July 13 to limit its application to subcommittees of two or more members of such legislative body but still failed to receive committee approval.

XIII. 1972

- A. AB 2225 (Brophy) would have amended the Brown Act to include committees or subcommittees whether composed of more or less than a quorum and defined a subcommittee as two or more members of the legislative body. The bill failed to receive committee approval.

XIV. 1973-74

- A. SB 1015 (Marks) would have amended Section 54952 to include committees or subcommittees composed of two or more members of a legislative body. The bill failed to receive committee approval.
- B. SB 2177 (Moscone) (Chapter 1254, Statutes 1974), as introduced, would have limited the authority of a local legislative body to consider the appointment or employment of persons in executive sessions to those persons who at the time of the executive session were neither performing services for nor employed by the local agency. This proposed amendment was deleted on June 11 and the bill made applicable solely to public meetings of the Public Utilities Commission.
- C. AB 857 (Burton) would have added a section making any action taken at any meeting held contrary to the Brown Act null and void. The bill was set several times, heard twice and finally dropped by the author.
- D. AB 2091 (Lancaster) (Chapter 1070, Statutes 1973) added Section 54954.1 relative to notice to property owners of meetings by districts. The reason for the bill was that many absent owners of second homes or other real property had no other way of obtaining notice of special district meetings. A written request is required.
- E. AB 2259 (Boatwright) would have added a new section requiring all testimony at land use meetings to be given under oath and made false testimony punishable as perjury. The bill was opposed by local government and finally dropped by the author.
- F. Open Legislative Meetings. It wasn't until 1973 that the Legislature adopted legislation requiring its own meetings and meetings of its committees to be open and public. See Section 9020 et seq. of the Government Code.



Frank McCulloch
Managing Editor

Gene
ack

February 28, 1986

Assemblyman Lloyd Connelly
The State Capitol
Room 2179
Sacramento, California 95814

Dear Lloyd:

Please be advised that at its last meeting, the executive committee of the California Freedom of Information Committee voted unanimously to support your AB-2674. If you have any suggestions as to how that support might be more effectively expressed, I hope you will let me know.

Best regards,


Frank McCulloch

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CALIFORNIA CONGRESS OF PARENTS, TEACHERS, AND STUDENTS, INC.

The Honorable Dominic Cortese, Chairman
Local Government Committee
Capitol Building
Sacramento, CA 95814

February 26, 1986

Dear Assembly Member Cortese,

The Legislation Action committee of the California State PTA met on February 20, 1986 and voted support of AB 2674. We in PTA are total agreement with this bill as it would strengthen the Brown Act and insure open public hearings

We urge you and all members of the Local Government Committee to approve passage out of committee and support AB 2674.

Sincerely yours,

Mrs. Seymour A. Cohen
Legislation Coordinator
California State PTA

CC: Assembly Member Connolly
Assembly Members Lancaster, Bradley, Bronzan,
Calderon, Eaves, Frazee, Hauser, Mountjoy, Robinson
Casey Sparks Consultant

Helen Cohen
Legislative Coordinator

CALIFORNIA STATE 
P.O. Box 15015, Los Angeles, CA 90015
(213) 620-1100

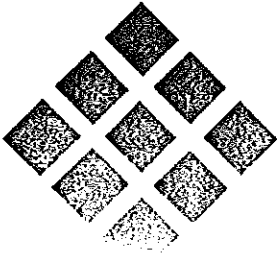
514 25th Street
Santa Monica, CA 90402
(213) 393-1013

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ACWA



February 26, 1986

The Honorable Walter Stiern
California State Senate
State Capitol
Sacramento, California 95814

ASSOCIATION OF
CALIFORNIA
WATER AGENCIES

*a non-profit corporation
since 1910*

Re: Senate Bill 1660

Dear Walter:

Thank you for introducing Senate Bill 1660 at our request. This legislation affords districts formed under the Municipal Utility District Act the same means to secure the payment of unpaid charges as is afforded most other local agencies.

We appreciate your efforts on behalf of our member agencies.

Sincerely,

Louis B. Allen
Assistant Executive Director

LBA:DH

cc: Senate Committee on Local Government

910 K STREET, SUITE 250
SACRAMENTO, CA 95814
(916) 441-4545

75th
ANNIVERSARY

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LOS ANGELES CITY COUNCIL
OFFICE OF THE CHIEF LEGISLATIVE ANALYST

WILLIAM R. McCARLEY
CHIEF LEGISLATIVE ANALYST

February 25, 1986

Mr. Casey Sparks
Consultant
Assembly Local Government Committee
Room 6031 State Capitol
Sacramento, CA 95814

Re: AB 2674 (Connelly) - Oppose Unless Amended
Set March 11, 1986
Assembly Local Government Committee

Dear Mr. Sparks:

The City of Los Angeles opposes AB 2674 relative to the Brown Act. This bill would impose severe changes on the functioning of local government. The overly restrictive posting requirement for agendas (both the 72 hour advance notice and the elimination of any specials), the virtual surrender of local control over meetings to any individual who wants to speak on anything for any length of time, and the threat of legal challenges to declare a local body's acts null and void will actually lead to less effective and less accountable local government.

Our City Attorney advises that this bill would severely limit public meetings of the Council in several aspects:

- 72 hour restraint: This provision would eliminate the use of specials in response to urgent situations, from local matters to unexpected developments in Sacramento and Washington. This poses a conflict between compliance with the bill and compliance with the Charter when the latter's requirement for a second reading of an ordinance must occur in one week but might violate the 72 hour rule if there are two holidays in between (such as a first reading on the Wednesday just prior to Thanksgiving).
- Employees of the legislative body: This is confusing because in this City, it is the City which employs people, not the legislative body.
- Public Input: This wording emphasizes public input to such an extent that any person, regardless of degree of interest in a given matter, has a right to speak on almost any subject for an unlimited period of time. This is particularly alarming when an individual seeks to talk on a matter not on the agenda, which this bill permits, but then prohibits the legislative body from discussing it. Under existing procedure, various laws require public hearings on certain matters; here a member of the public has a right to speak.

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- Notification of news media: By deleting "such" and substituting "the" before "newspapers, radio stations or television stations" concerning notice of an emergency meeting, the bill intends that notification be inconclusive of all such entities, a considerable task in the Los Angeles area.
- Null and void provision: By imposing a 30 day period to challenge a public meeting for a violation of AB 2674, the bill effectively puts any acts by the public entity in limbo until 30 days are over. How could the entity function in an emergency? While challenges are possible currently, they do not have a time limitation; by imposing a short time period, the bill effectively clouds all legislative acts.

Therefore, the City of Los Angeles must indicate our opposition to the enactment of AB 2674.

Yours very truly,

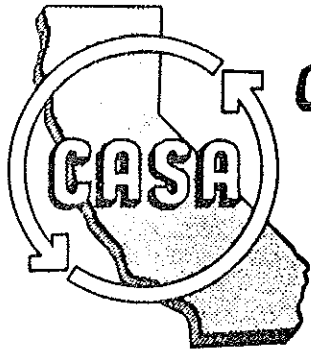
Norm Boyer
Chief Legislative Representative

NB/lv

cc: All Members of the Assembly Local Government Committee

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CALIFORNIA ASSOCIATION of SANITATION AGENCIES

925 L Street

Suite 600

Sacramento, CA 95814

Telephone (916) 446-0388

February 11, 1986

President
MICHAEL ZAMBORY
Carmel Sanitary District
P. O. Box 221428
Carmel, CA 93922
(408) 624-1248

Secretary-Treasurer
CHARLES A. JOSEPH
Novato Sanitary District
500 Davidson Street
Novato, CA 94947
(415) 892-1694

1st Vice-President
PARKE L. BONEYSTEELE
Central Contra Costa

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Los Angeles County

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HUGH MOORE
DR. JOSEPH F. BROWN

MICHAEL F. DILLON
Executive Director &
Legislative Advocate
925 L St., Suite 600
Sacramento, CA 95814

Honorable Dominic Cortese
Chairman, Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

Dear Dominic:

The California Association of Sanitation Agencies has taken an oppose position to AB 2674-Connelly relating to open meetings.

Our CASA member agencies try to adhere to agenda rules and only make changes to the agenda when very necessary. Many of our agencies are involved in the construction grant program and it often becomes necessary for the agency to make a determination on a spontaneous basis. An exemple would be a construction change order exceeding the manager's authority. It would be a costly disservice to both the agency and the taxpayers to have to continually put over for several weeks actions on items that are usually "routine" and need prompt attention.

The bill limits the flexibility to respond on a timely situation and would probably end up forcing local agencies to have additional meetings, again resulting in additional costs.

Thank you for your consideration.

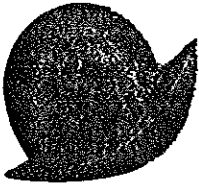
Sincerely,

MICHAEL F. DILLON

MFD:d

LEGISLATIVE INTENT SERVICE (800) 666-1917





City of Cupertino

10300 Torre Avenue
Cupertino, California 95014
Telephone: (408) 252-4505

P.O. Box 580
Cupertino, California 95015

OFFICE OF THE CITY CLERK

February 5, 1986

The Honorable Dominic L. Cortese, Chair
and Members of the Assembly Local Government Committee
State Capitol Building
Sacramento, CA 95814

OPPOSITION TO AB 2674 - BROWN ACT BILL

At their meeting of February 3, 1986, Cupertino City Council voted to oppose the subject bill. The provision prohibiting cities from acting on off-agenda items could stop or greatly slow routine city business or handling of last-minutes items. Allowing the public to place items directly on the agenda could cause an administrative nightmare for cities. In addition, the bill may conflict with some city charters, and no need has been documented justifying the bill.

Please consider this position should your Committee be assigned this bill.

Sincerely,

DOROTHY CORNELIUS
CITY CLERK

cc: The Honorable Ernest Konnyu
The Honorable Rebecca Morgan
League of California Cities

1-11-86

LEGISLATIVE INTENT SERVICE (800) 666-1917





City of Clearlake
Post Office Box 2440, Clearlake, CA 95422-2440
(707) 994-8201

Council Members

Arsenio P. Sanchez, Jr., Mayor
Vic Rosa, Vice-Mayor
Pete Von Drell
Betty Marquardt
Ed Robey, Jr.

February 28, 1986

Honorable Chairperson Cortese
Assembly Standing Committee
Local Government
State Capitol
Sacramento, CA 958114

RE: AB 2674
Proposed amendments
to the Brown Act

Honorable Committee Member:

The City Council has reviewed the proposed amendments to the Brown Act and wishes to request your support in opposing the amendment as written.

The potential of Council actions being declared null and void places a cloud over such actions which would threaten contracts and other actions creating delays in implementation of projects.

Also, the elimination of "or after" in the section pertaining to listing closed sessions on the agenda will result in serious and sometimes costly delays in addressing urgent matters that the Brown Act otherwise allows you to consider in closed session.

Your support in opposing these proposed amendments will be greatly appreciated.

Sincerely,


Arsenio P. Sanchez, Jr.
Mayor

LEGISLATIVE INTENT SERVICE (800) 666-1917



City of Palo Alto

P. O. BOX 10250
PALO ALTO, CA 94303

OFFICE OF THE MAYOR
(415) 329-2384

February 27, 1986

The Honorable Dominic Cortese
Chair, Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

Re: AB 2674 (Connelly) - Oppose

Dear Assemblyman Cortese:

The Palo Alto City Council, at its meeting of February 24, 1986, voted to strongly oppose AB 2674. It is difficult to understand what could have prompted the introduction of such legislation. It is most detrimental to legislative decision-making at the local level.

The effect of AB 2674 on Palo Alto will be significant. The freedom to conduct city business will be greatly impaired. The bill represents a substantial intrusion into the Council's autonomy to govern the city and to prioritize matters. It impairs the ability to respond to emergency situations and introduces a note of uncertainty into all actions which the City Council or its boards and commissions may take. If the Council were to make a determination that there was an emergency and authorize action to counter that emergency, it would run the risk of having that decision overturned by a court which disagreed with it about the severity of the emergency.

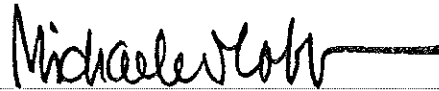
Palo Alto's current procedures provide for an open government process. The Palo Alto Municipal Code contains policies which (1) allow any persons who wish to speak on the agenda items, (2) provide for publication of the agenda for regular meetings at least 24 hours before the meeting, (3) allow speakers to address Council on items not on the agenda under oral communications, (4) authorize the Council to add emergency items or urgency matters to the agenda at the meeting, and (5) allow City Council members and Council-appointed officers to place items on the agenda.



The Honorable Dominic Cortese
Page 2

AB 2674 is not needed. On behalf of the Palo Alto City Council, I urge you to defeat this bill in Committee.

Yours truly,



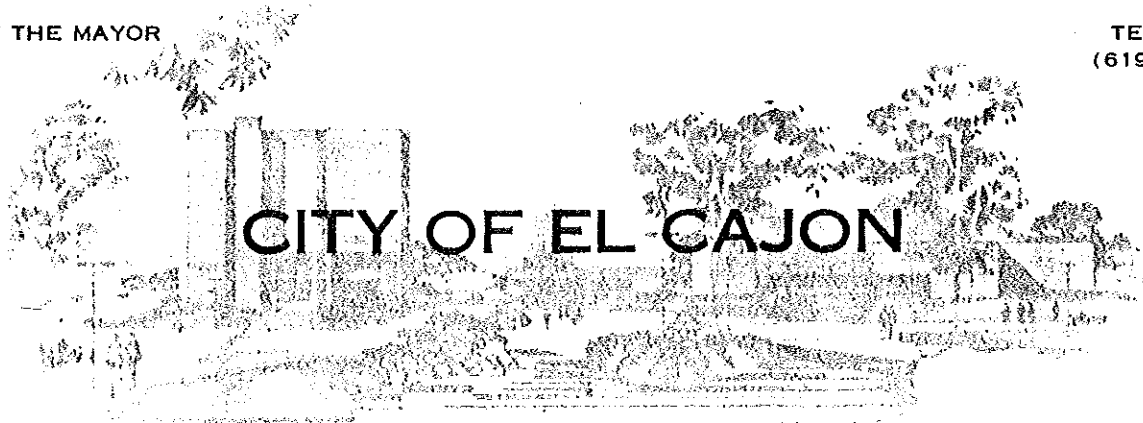
MICHAEL COBB
Mayor

MC/cjl

cc: The Honorable Bill Lancaster, Vice Chair, Assembly Local
Government Committee
The Honorable Lloyd G. Connelly, Member, State Assembly
League of California Cities

LEGISLATIVE INTENT SERVICE (800) 666-1917





CITY OF EL CAJON

February 25, 1986

Honorable Dominic Cortese, Chair
and Members of the
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

Dear Assemblymembers:

At the meeting of February 18, 1986, the El Cajon City Council discussed Assembly Bill 2674 (Connelly) concerning the Brown Act.

Council opposes this bill which makes numerous changes to the Brown Act and could cause administrative nightmares for cities and defeat the openness this legislation seeks.

Council urges your opposition to AB 2674 in its present form when it comes before you for consideration.

Very truly yours,

John Reber
Mayor

JR:ML:sw

- cc: League of CA Cities
- Councilmember Shoemaker
- Assemblymember Stirling
- Assemblymember Connelly

LEGISLATIVE INTENT SERVICE (800) 666-1917



AP-55

The City of
BARSTOW
California

February 27, 1986

Assemblyman Dominic Cortese
State Capitol
Sacramento, CA 95814

RE: AB 2674

Dear Assemblyman Cortese:

The City of Barstow wishes to express its opposition to Assembly Bill 2674.

The Bill as presently constituted would make the conduct of business in local agencies unnecessarily difficult and certainly unbusinesslike.

Although no one will argue the merits of the present open meeting laws, this Bill has a tendency to increase the cost of government and reduce the level of service to the citizen, a circumstance we can ill afford.

We therefore respectfully request your opposition to AB 2674.

Sincerely,



Bernard W. Keller
Mayor

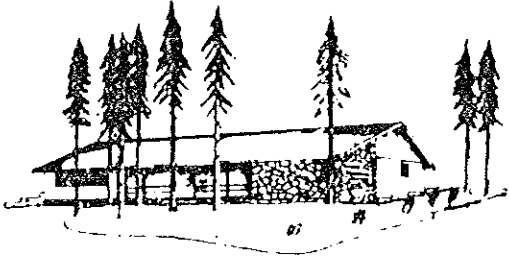
BWK:b

cc: League of Calif. Cities

LEGISLATIVE INTENT SERVICE (800) 666-1917



AP-56



PARADISE IRRIGATION DISTRICT

MEMBER OF CALIFORNIA ASSOCIATION OF WATER AGENCIES AND AMERICAN WATER WORKS ASSN

5325 BLACK OLIVE DRIVE — PARADISE, CALIFORNIA 95969 — TELEPHONE: (916) 877-4971 — MAILING ADDRESS: P.O. BOX 128

February 26, 1986

Assemblyman Wally Herger
California State Assembly
State Capitol
Sacramento, CA 95814

Senator James W. Nielsen
California State Senate
State Capitol
Sacramento, CA 95814

Re: A.B. 2674

Gentlemen:

The public business conducted by this special district, and the method for conducting of that business, is not in need of legislative change. In fact, it is believed that the proposed legislation will hinder timely action on the public's business.

The public is entitled to, and now enjoys, the opportunity to bring issues before its elected officials and receive immediate action, if so warranted. Timely action on issues of public interest and on issues of opportunity, such as purchases of reduced prices on materials and action before last minute deadlines imposed beyond the control of the District, must remain the prerogative of the elected officials involved. Our District opposes this bill and requests your assistance in its defeat.

Very truly yours,

Don Stone, President
Board of Directors

DS:mj

cc: Assemblyman Lloyd G. Connelly
Members, Assembly Local Government Agency Committee,
Association of California Water Agencies
David Minasian
William Spruance





Telegram

V SZA033(1626)(1-013579A055)PD 02/24/86 1625

ICS IPMRYNR RNO
05841 RENO NV 02-24 0125P PST RYNQ
ICS IPMSZ04

4-032118S055 02/24/86
ICS IPMRNCZ CSP

2136341217 POM TDRN LAKEWOOD CA 40 02-24 0405P EST
PMS REP DOMINIC CORTESE
SACRAMENTO CA 95814

THE CITY COUNCIL OF LA PUENTE HAS INSTRUCTED ME TO REQUEST THAT YOU
VOTE "NO" ON AB2674 RELATING TO THE BROWN ACT AND SET FOR HEARING
BEFORE THE ELOOAFEBRUARY 24. YOUR "NO" VOTE
GREATLY APPRECIATED.

W.U. 1201-SF (R6-69) SAM SIEGEL, CITY ATTORNEY 4909 LAKEWOOD BLVD #

300 LAKEWOOD CA 90712



Telegram

4 909 LAKEWOOD BLVD #
300

LAKEWOOD CA 90712

1606 EST
NNNN

AP-58

LEGISLATIVE INTENT SERVICE (800) 666-1917



CITY OF FILLMORE
524 SESPE AVE. — P.O. BOX 487
FILLMORE, CALIFORNIA 93015
(805) 524-3701

February 24, 1986

Chairman Dominic L. Cortese
Assembly Local Government Committee
State Capitol, Room 6031
Sacramento, CA. 95814

RE: AB 2674

Dear Chairman Cortese:

As the Mayor of the City of Fillmore I am writing this letter on behalf of the Fillmore City Council to express our concern with Assembly Bill 2674. As you know AB 2674 proposes sweeping amendments to the Brown Open Meeting Act. We have the following concerns with regard to the proposed legislation:

First, the requirement that items be agendaized 72 hours prior to the regular meeting would simply add another layer of bureaucracy to the consideration of routine items.

Second, all the cities I am aware of have a regular agenda item typically referred to as Open Forum. This is the time when any member of the public may come forward and address the Council concerning any matter not previously considered on the Agenda. However, it is my understanding that AB 2674 would extend this practice by allowing matters to be placed directly on the agenda by members of the public. This neither seems like a solid business practice nor does it seem to be necessary.

Third, AB 2674 requires that any closed sessions be agendaized 72 hours before the regular meeting. Thus, any items occurring within three days of the Council meeting that would normally be held in closed session would be forestalled until notice requirements could be satisfied.

Perhaps the most distressing part of the proposed legislation is that there appears to be no need for it. I have spoken with various public officials in Ventura County and we feel that our meetings and actions are very well covered by the press. We also feel our accessibility to the citizens of our community is excellent. It just does not seem necessary to have these new regulations which would inevitably slow down local government.

Very truly yours,

Delores I. Day
DELORES I. DAY,
Mayor
DID:nhw

LEGISLATIVE INTENT SERVICE (800) 666-1917





City of National City
Office of the Mayor


1243 National City Blvd., National City, CA 92050-4397 (619) 477-1181
Kile Morgan—Mayor

February 25, 1986

Chairman Cortese and Members of the
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

RE: AB 2674 - Brown Act Bill

Subject bill has many recommendations that I fully support and there are some that I have reservations on. I find no record of any official action taken by the city opposing this bill so I am writing to let you know that I am personally in favor of it for the most part.


KILE MORGAN
Mayor

KM/ev

cc: Senator Wadie Deddeh
Assemblyman Steve Peace

LEGISLATIVE INTENT SERVICE (800) 666-1917





Office of the Mayor

February 24, 1986

The Honorable Dominic L. Cortese
Assemblyman, 24th District
State of California
State Capitol
Sacramento, California 95814

Dear Assemblyman Cortese:

The City of San Juan Capistrano would like to document our opposition to, and request your "no" vote on, the "Brown Act Bill" authored by Assemblyman Lloyd Connelly. Assembly Bill 2674 requires a city to post an agenda 72 hours before a regular meeting and 24 hours before a special meeting, and prohibits the city from acting on off-agenda items. This would greatly hinder the city's ability to handle routine city business and last-minute emergency items. Off-agenda items typically involve routine non-controversial topics such as repairs to public facilities and property, resolutions, positions on pending legislation, and appropriations of funds to repair emergency conditions such as a break in a sewer line or storm drain line. Nearly all significant policy actions a city council takes must be publicly noticed pursuant to other laws.

The Brown Act also allows the public to place items on the agenda directly. Besides causing extreme staff workload and administrative problems, a city council agenda or commission agenda may become over-loaded and business would come to a staggering halt. The Brown Act would also delay all public bond issues, development approvals, and public projects by allowing a 30-day period to file a suit challenging the action. Excessive expense would result from the projects being tied up for at least thirty days waiting for a suit to be filed, and if a suit was filed, the project could not begin until the lawsuit concluded. This problem would also exist with private developments.



The Honorable Dominic L. Cortese
February 24, 1986
Page 2

The City of San Juan Capistrano believes that a need for Assembly Bill 2674 has not been documented nor justified. The City of San Juan Capistrano, like most cities, allows the public to address any off-agenda or agenda item of business at each city council meeting. Besides being in conflict with some city charters, Assembly Bill 2674 imposes constraints that extremely hinders, if not halts, day-to-day operations of the city. We wonder -- could the Legislature operate under such conditions?

Thank you for your consideration of our position on this Bill.

Respectfully,



Phillip R. Schwartz
Mayor

PRS:cj





CITY OF CULVER CITY

9770 CULVER BOULEVARD • P.O. BOX 507
CULVER CITY, CALIFORNIA 90232-0507

February 21, 1986

The Honorable Dominic Cortese, Chairman
Assembly Local Government Committee
State Assembly
State Capitol
Sacramento, California 95814

Dear Assemblyman Cortese:

Re: Request Your Opposition to AB 2674 (Connelly). Brown
Act Bill

On behalf of the Mayor and City Council of the City of Culver City, we wish to advise you of our strong opposition to AB 2674. AB 2674 in its current form which requires a city to post an agenda 72 hours before a regular meeting and 24 hours before a special meeting and prohibits the acting on off-agenda items could stop or greatly slow routine city business of handling last minute items.

Second, AB 2674 will allow the public to place items on the agenda directly. This could cause an administrative nightmare for our city as well as incapacitate our city council. Thirdly, the bill renders "null and void" a decision taken in violation of the Brown Act even when the violation was not intentional. Some examples of the problems this provision causes are: (1) every bond issue would require a validating lawsuit, an unnecessary expense in most cases; (2) development approvals might require validating actions, especially if those approvals involve a lawsuit settlement, resulting in unnecessary expense to the developer and perhaps increasing financing costs; (3) the dismissal or demotion of an employee would be subject to challenge as invalid, and the employee would have a possible right to reinstatement; (4) all decisions to file, settle, or try lawsuits would be subject to challenge; and (5) all public works projects would be tied up for at least thirty days, and if a lawsuit is filed, the project could not begin until the lawsuit was concluded. The same problem would exist with private developments.



Page 2

Finally, no need has been documented to justify this bill thereby raising the question as to whether the Legislature could operate under these rules if they were imposed on them.

We would request your favorable consideration of our City's position on this bill and a "NO" vote when this bill comes before your Committee.

Sincerely,



Dale Jones
Chief Administrative
Officer

DJ:gmh

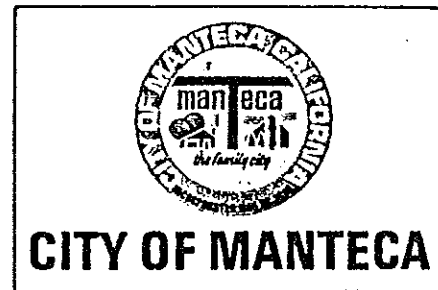
cc: City Clerk
City Attorney
League of California Cities
Assemblywoman Gwen Moore

LEGISLATIVE INTENT SERVICE (800) 666-1917



MANTECA CITY COUNCIL

JACK C. SNYDER, MAYOR
WILLIAM PERRY, COUNCILMAN
DAVE BALSINGER, COUNCILMAN
RICHARD CROSS, COUNCILMAN
JEANNE DOWHOWER, VICE MAYOR



February 21, 1986

P.O. Box 3000
1001 W. Center Street
Manteca, California 95336
(209) 239-8417

The Honorable Patrick Johnston
State Capitol
Sacramento, CA 95814

SUBJECT: AB 2674 (Connelly)

Dear Assemblyman Johnston:

Please let the record show my opposition to AB 2674 (Connelly), the Brown Act Bill. Routine City business or handling of last minutes items could be slowed down in their processing as the Bill would require a City to post an agenda 72 hours before a regular meeting and 24 hours before a special meeting.

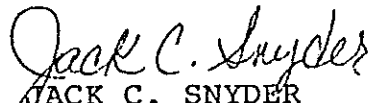
Secondly, AB 2674 allows the public to place items on the agenda directly. This action would take away the Council's control of the staff's workload as well as their own.

Thirdly, the bill renders "null and void" a decision taken in violation of the Brown Act even when the violation was not intentional.

Finally, no need has been documented justifying the bill.

Should you wish to discuss my stand on AB 2674 at further length, contact me at 239-8417.

Sincerely,


JACK C. SNYDER
MAYOR

cc: Assemblyman Cortese, Chairman ✓
Assembly Local Government Committee
Manteca City Council
City Manager





City of Norwalk

12700 NORWALK BOULEVARD, NORWALK, CALIFORNIA 90650

213/929-2677

MARCIAL "ROD" RODRIGUEZ
Mayor

LOUIS BANAS, JR.
Mayor Pro Tempore

ROBERT E. "BOB" WHITE
Councilman

CECIL N. GREEN
Councilman

MARGARET I. "PEG" NELSON
Councilwoman

RAY GIBBS
City Administrator

February 20, 1986

Assemblyman Dominic Cortese
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

Dear Assemblyman Cortese,

My fellow members of the City Council join with me in urging your opposition to AB 2674.

This bill would greatly restrict the addition of last minute non-controversial items to a City Council Meeting Agenda such as proclamations or resolutions. Nearly all significant policy actions our City Council takes are already properly noticed in advance.

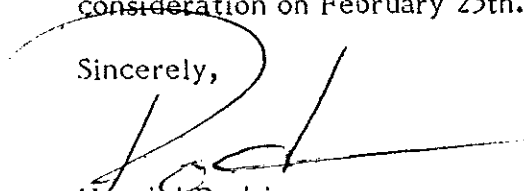
The bill also would allow the public to place items on the agenda directly. We already have a very open procedure whereby citizens can submit requests to be placed on City Council Meeting Agendas, and which allows our citizen commissions and/or our staff an opportunity to evaluate the merit of the request, and provide us with their advice.

Finally, it is our understanding that this bill renders "null and void" a decision taken in violation of the Brown Act even when the violation was not intentional. The bill also allows 30 days to file a lawsuit to challenge the action. This aspect of the bill could be totally disruptive to the local government process impacting public works projects, potential development projects and the dismissal or demotion of employees.

This bill is totally unnecessary. Rather, than make the local governmental decision-making process increasingly open and accessible, it could have the opposite effect of its legislative intent.

Again, we urge your opposition to this bill when it comes before you for consideration on February 25th.

Sincerely,

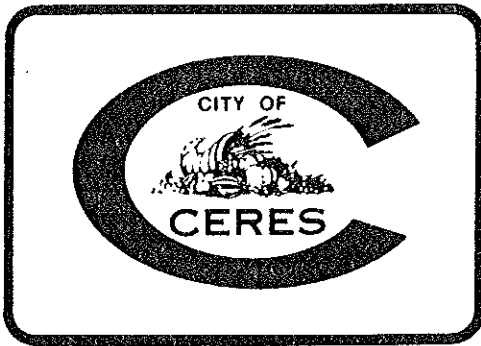

Marcial Rodriguez
Mayor

MR:sh

LEGISLATIVE INTENT SERVICE (800) 666-1917



2720 SECOND STREET
CERES, CA. 95307
(209) 537-8911



CITY COUNCIL
Jim Delhart, Mayor
Lewis Arrollo Jeffrey D. McKay
Richard McBride Gary Sorlien

February 24, 1986

Assemblymember Cortese
State Capitol
Sacramento, CA 95814

SUBJECT: Assembly Bill 2674 (Connelly)

Dear Assemblymember Cortese:

It is my understanding that Assembly Bill 2674 has been reset for public hearing before the Assembly Local Government Committee on March 11, 1986.

Be advised that the City of Ceres is opposed to the provisions of AB 2674 in its current form.

In its current form, the bill would preclude a city from taking action on any off-agenda item. This could greatly slow down reaction to and the handling of sometimes routine items that are presented to the City Council at the last minute. Also, the bill would allow any member of the public to place any item on the City Council agenda for consideration. This city has always worked very openly with its constituents and at the request of any citizen currently allows information to be included on the agenda for consideration. The mandate may cause problems in that it would be difficult for the Council to direct staff in priority areas if staff is always forced into positions of responding to citizen-placed agenda items.

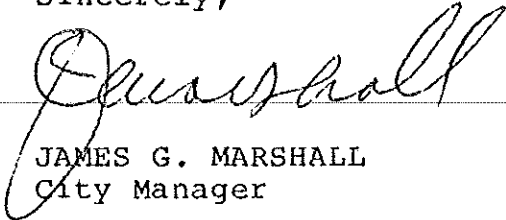
There are other provisions of the bill in its current form which also seem unreasonable. This city is certainly not aware of any public reaction which would justify this type of action by the State legislature. I am sure the legislature would find it very difficult to operate under the rules and regulations proposed by AB 2674.

Accordingly, this city would request that when this matter comes before you both at the Assembly Local Government Committee hearing and on the floor that you would oppose this measure.



Assembly Local Government Committee
Re: AB2674 (Connelly)
February 24, 1986
Page Two

Sincerely,



JAMES G. MARSHALL
City Manager

JGM:kmd

cc: CC-S
League of California Cities
Assemblyman Gary Condit
Assemblyman John Seymour
Senator Ken Maddy
Senator Dan McCorquodale

LEGISLATIVE INTENT SERVICE (800) 666-1917





City of Lindsay

251 HONOLULU STREET - LINDSAY, CALIFORNIA 93247 - (AREA 209) 562-2511

P. O. BOX 369

February 20, 1986

Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

Cortese	Eaves
Lancaster	Frazer
Bradley	Hauser
Bronzan	Robinson
Calderon	Rogers

RE: AB 2674, BROWN BILL ACT

The City of Lindsay strongly opposes the passage of the Brown Bill Act, AB 2674. It would further hamper our ability in its current form.

We request a "NO" vote.

On behalf of the Lindsay City Council, I am

Sincerely yours,

Peggy D. Sanders
Mayor

MS:bjp

LEGISLATIVE INTENT SERVICE (800) 666-1917





THE CITY OF
Ridgecrest

Mayor

ANNA MARIE BERGENS

Council

MICHAEL R. MOWER
FLORENCE S. CONDOS
JIM PEARSON
THOMAS R. WIKNICH

City Administrator

LAWRENCE M. COOK

ONE HUNDRED THIRTY NINE BALSAM STREET • RIDGECREST, CALIFORNIA 93555 • TELEPHONE (619) 375-1321

February 21, 1986

Assemblyman Dominic Cortese
Member, Assembly Local Government Committee
State Capitol Building
Sacramento, CA 95814

Dear Assemblyman Cortese:

The City Council of the City of Ridgecrest strongly urges you to vote "NO" on AD 2674 (Connelly), which makes numerous changes to the Brown Act. The Council believes the bill is highly unworkable for a number of reasons.

As one example, the bill prohibits the City from acting on off-agenda items. This would prohibit such non-controversial items as citizen requests for repair to public facilities and property, or a need to appropriate funds for sudden repairs. Nearly all significant policy actions the Council takes must already be noticed pursuant to other laws.

Other concerns include the administrative nightmare that could result from citizens placing items directly on the Council's (or commissions') agendas. That would be in contrast to the current procedure for formally requesting an item.

The "null and void" provision was a further, large cause of opposition because of the delays and unnecessary expenses that it would cause. They felt you could understand these problems if you pictured the Legislature operating under such a set of laws.

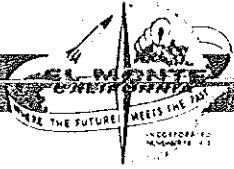
Again, the Ridgecrest City Council urges you to vote "NO" on AD 2674.

Sincerely,

Roger Ward
Acting City Administrator

bp
cc: League of California Cities





CITY OF EL MONTE

CITY HALL • 11333 VALLEY BOULEVARD
EL MONTE, CALIFORNIA 91734
TELEPHONE (818) 575-2225

February 20, 1986

CITY COUNCIL
DON McMILLEN, MAYOR
ERNEST GUTIERREZ, VICE MAYOR
JACK T. CRIPPEN
D. L. (DAN) MORGAN
HENRY J. VELASCO

CITY CLERK
KATHLEEN KAPLAN

Assemblyman Dominic Cortese
Chairman
Local Government Committee
State Capitol
Sacramento, CA 95814

Dear Assemblyman Cortese:

The El Monte City Council at their meeting of February 11, 1986,
voted to oppose AB-2674 (Connelly) - League Board Votes to oppose
Brown Act Bill.

I urge your committee to bppose the passage of AB-2674.

Sincerely,

Don McMullen

DON McMILLEN, MAYOR
City of El Monte

DMcM:bc

cc: Committee Members
League of California Cities
Assemblywoman Sally Tanner

LEGISLATIVE INTENT SERVICE (800) 666-1917



THE CITY OF SANTA CLARA CALIFORNIA

OFFICE OF THE
MAYOR

CITY HALL
1500 WARBURTON AVE
SANTA CLARA, CA. 95050
(408) 984-3250

February 20, 1986

The Honorable Dominic L. Cortese
Chair, Local Government Committee
The State Capitol, Room 6031
Sacramento, CA 95814

Dear Assemblyman Cortese:

The Brown Act is now providing to the public assurances that the actions of their local legislators are taken at public meetings. It is working well.

AB 2674, introduced by Assemblyman Connelly, would add conditions which would hinder the ability of legislative bodies to respond rapidly to publicly introduced items for their consideration.

The City of Santa Clara feels that the present law provides the necessary public safeguards, and that AB 2674 adds unnecessary and hindering features. For these reasons, we urge your opposition.

Sincerely,



Everett N. Souza
Mayor



D. R. Von Raesfeld
City Manager

sec

LEGISLATIVE INTENT SERVICE (800) 666-1917



City of La Mirada



LOU PILTZ, MAYOR
DR. C. DAVID PETERS, MAYOR PRO TEM
BEN S. ASHLEY, COUNCILMAN
KEN JONES, COUNCILMAN
WAYNE REW, COUNCILMAN
GARY K. SLOAN, CITY MANAGER

February 21, 1986

Dominic Cortese, Chairman
Assembly Local Government Committee
State Capitol Building
Sacramento, CA 95814

SUBJECT: ASSEMBLY BILL 2674 (CONNELLY)

Dear Chairman Cortese:

On behalf of the residents of La Mirada and the La Mirada City Council, I urge you to oppose Assembly Bill 2674 (Connelly), the Brown Act Bill.

If this bill passes legislation, it would create several problems. First, this bill requires you to post your agenda 72 hours in advance. It would prevent our City Council from acting on off-agenda items. This would cause much confusion and could stop or greatly delay routine City business.

This bill also allows the public to place items on the agenda directly. Although there is no objection to having a formal request, direct access to the agenda would also hinder the continuity of City business.

Most importantly, if a decision is unintentionally made in violation of the Brown Act, that decision is rendered "null and void." AB 2674 allows 30 days to file a lawsuit to challenge the decision. Validating actions may be required of development approvals. This would bring about unnecessary expense as well as a delay in projects.

It would be extremely difficult for the legislators of this City, or any city, to function properly under these regulations. Therefore, I strongly urge you to oppose AB 2674.

Thank you for your time.

Sincerely,

CITY OF LA MIRADA

Lou Piltz
Mayor

LP:hh



City of Palm Springs



of the Mayor
9-323-8200

February 21, 1986

Assemblyman Dominic L. Cortese
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

Dear Assemblyman Cortese:

On behalf of the City Council of the City of Palm Springs,
I urge your strong opposition to AB 2674.
AB 2674, in its present form, would create a number of
administrative problems for cities:

1. Preventing the City Council from considering items not on its the agenda unduly restricts its ability to act in a timely manner; precludes it from considering items raised by the public at that meeting and might even preclude the Council from being able to direct staff to look into an item. There are routine, ministerial matters acted upon at Council meetings, without being on the agenda, which expedite the public's business; and to now consider precluding that, would be hamstringing City operations and creating economic hardships..

2. Potentially, inaccurate information might be provided to the public in that items not fully prepared would be placed on the agenda so they could be acted on if completed in time, but may later be pulled off agenda because they are not ready.

3. Requiring public comments on each agenda item as it comes up, leads to lengthy, disorderly meetings and appears to make all agenda items public hearing items.

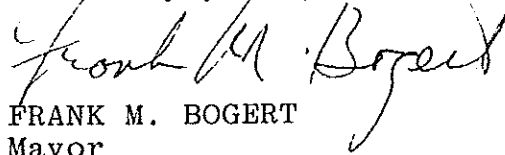
4. Requiring posting of Special Meeting agendas is redundant because, under current law, Special Meeting notices must contain the action to be considered, and no other matters can be considered. Such notice is required to be given to the news media.

5. It appears that AB 2674 is an attempt by the State Legislature to establish procedures for the conduct of City Council meetings without fully understanding the many other negative implications of such rules.

We see no justification for AB 2674. Could the State Legislature operate under these proposed rules? I suggest that if a recent specific incident has caused this issue to be brought forth, consideration be given to making the nature of that issue the subject of a public hearing or opportunity for public input.

Please vote "NO" on AB 2674 in its present form.

Sincerely yours,



FRANK M. BOGERT
Mayor

FMB/es





City of Cupertino

10300 Torre Avenue
Cupertino, California 95014
Telephone: (408) 252-4505

P.O. Box 580
Cupertino, California 95015

OFFICE OF THE CITY CLERK

February 20, 1986

The Honorable Dominic Cortese, Chair, and
Members of the Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

OPPOSITION TO AB 2674

The Cupertino City Council has asked that I again urge your no vote on AB 2674 regarding the Brown Act which your Committee will be considering on February 25.

Sincerely,

DOROTHY CORNELIUS
CITY CLERK

cc: The Honorable Rebecca Morgan
The Honorable Ernest Konnyu
League of California Cities

LEGISLATIVE INTENT SERVICE (800) 666-1917





555 RAILROAD AVENUE (POST OFFICE BOX 156) HERCULES, CA 94547-0156
PHONE: 415-724-9800

February 19, 1986

Hon. Dominic L. Cortese
Local Government Committee
Room 6031, State Capitol Bldg.
Sacramento, CA 94814

Dear Assemblyman Cortese:

Subject: Opposition to AB 2674

I am writing on behalf of the Hercules City Council to request your opposition to this proposed piece of legislation. It is scheduled for hearing for the Assembly Local Government Committee on February 25th.

We have reviewed the Bill and do not believe that it is needed or necessary. The Hercules City Council, as well as other councils in the State, now operate under the current provisions of the Brown Act. These provisions are very specific and require notice of all meetings of any kind where a majority of the Council is present. Meetings of our Council, as well as an overwhelming majority of all Councils in the State, are attended by representatives of the press and the public.

It is our Council's opinion that we do not have a problem in our City with residents wishing to raise issues or speak to the Council. We have on every agenda a time at the beginning where any person can address the City Council on any issue of their choosing. We believe that the provisions of this proposed Bill are unnecessary, over-restrictive, and will make it difficult, burdensome, and potentially increase our liability when making decisions.

We strongly urge your opposition to this Bill on the basis that it is absolutely not needed.

Very truly yours,

Russ Perkins

Russ Perkins
Mayor,
City of Hercules

RP/bt
cc: League of Calif. Cities

f:d:lt2local.bt



City of Concord

PHONE: (415) 671-3160

Office of the City Attorney

CITY COUNCIL

Ronald K. Mullin, Mayor
Colleen Coll, Vice Mayor
June V. Buiman
Diane Longshore
Stephen L. Weir
Farrel A. Stewart, City Manager

February 18, 1986

Honorable Dominic L. Cortese, Chair and
Members of the Assembly Local Government
Committee
State Capitol
Sacramento, CA 95814

RE: AB 2674 (Connelly)

Dear Chair Coretese and Members of the Assembly Local
Government Committee:

The City Council of the City of Concord urges your opposition to the passage of the above legislation which is an amendment to the Ralph M. Brown Act. Council opposes this legislation because it is unnecessary and it will make the running of local government more difficult and eliminate our right to control agendas.

AB 2674 in its present form contains a number of objectionable features. Among these are the following:

1. Prohibiting the placement on a regular agenda of an item which was previously not listed and then acting on that item. While it is rare that off agenda items are placed on the agenda and acted on by the City Council they do occur occassionally where it is necessary to have the City Council act on a particular issue. For example, the City Attorney may require a closed session which is not listed on the agenda in order to discuss a potential settlement which may have arisen the day of the Council meeting and which would be jeopardized by postponement; sometimes legislative matters are brought to the City Council's attention on bills that are of importance to the City and which will be acted upon by an Assembly or Senate Committee within a few days of the Council meeting. Occassionally an emergency Public Works problem arises which requires immediate action. It has been the City Council's policy over the years not to place on the

AP-79



agenda for action any item which is deemed to be controversial and requires public comment. These items are placed on a regular agenda for a future meeting with appropriate notices to interested parties.

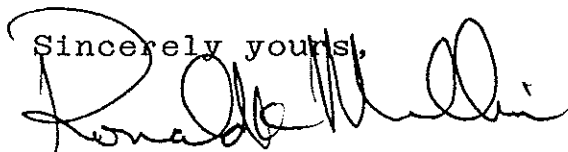
2. Allow the public to place items on the agenda directly. The City Council presently has a policy which allows members of the public who are interested in addressing the Council to identify to the Council what those issues are and arrange for future placement of these items on a Council agenda. Under the provisions of AB 2674 the City Council and staff would not be able to control the placement of public items on the agenda. This would not necessarily improve the public's access to the Council nor increase the efficiency of meetings; it would probably tend to have the opposite effect. Public meetings often go late into the evening in order to handle the routine business that comes before Planning Commissioners and City Councilmembers, including those items that require public hearings according to State law. To allow members of the public to place items on the agenda which would be considered late in the evening or early morning hours when people are tired will not improve governmental operations. In the City of Concord we attempt to schedule comments from members of the public at a convenient time following an afternoon session held once a month or to refer these matters to one of the Council committees that can meet during the day to hear a person's concerns. We believe that our process works very well in its present format and that AB 2674 will not improve upon our present procedures but may, in fact, have the opposite effect.

3. The bill would render null and void a decision taken in violation of the Brown Act even when the violation was not intentional and allows a thirty day period in which to file a suit to challenge any Council action. This Council is very aware of its responsibilities under the Ralph M. Brown Act and to the best of our knowledge has never taken any action which is in violation of that act. However, AB 2674 would essentially impose a thirty day additional period on the validity of any action taken by this Council because of the possibility of some disgruntled person filing an action challenging the validity of our decisions on the pretext that it was a violation of the Act. This can result in City decisions being subject to "political blackmail;" the court's decisions have not been favorably disposed to allowing public entities to prosecute individuals for filing frivolous lawsuits. This provision would render the decisions of the City Council hostage and to anyone who wishes to file a lawsuit with the net result that the challenged decision may be nullified due to the passage of time.



The City Council of the City of Concord does not understand the justification for this legislation and does not believe it is in the best interests of good government. Therefore, we urge your strenuous opposition to the passage of AB 2674.

Sincerely yours,

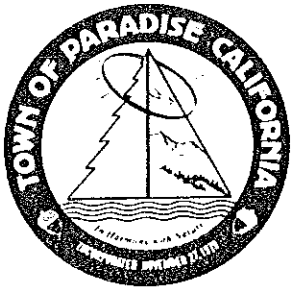


RONALD K. MULLIN
Mayor

RKM:KCS:cls

cc: The Honorable Dan Boatwright, Senator
The Honorable Tom Bates, Assemblyman
The Honorable Robert Campell, Assemblyman
League of California Cities
Concord City Council
City Manager
City Attorney





TOWN OF PARADISE

5555 SKYWAY
PARADISE, CALIFORNIA 95969
TELEPHONE: [REDACTED]

February 20, 1986

(916) 872-6295

Assemblyman Dominic L. Cortese
State Capitol
Room 6031
Sacramento, CA 95814

Dear Assemblyman Cortese:

The Town Council of the Town of Paradise has unanimously gone on record in opposition to AB 2674 (Connelly).

The Council believes that the proposed amendments to the Brown Act are not in the best interest of local government and they feel that these changes at this time are not appropriate.

Council would appreciate your opposition in consideration of AB 2674.

Sincerely,

MICHAEL E. HAYS,
Town Manager

MEH:oc

cc: Council

LEGISLATIVE INTENT SERVICE (800) 666-1917



City of Duarte

Sixteen Hundred Huntington Drive, Duarte, California 91010 - (818) 357-7931

February 12, 1986

Honorable Dominic Cortese, Chairman
Assembly Local Government Committee
State Capitol
Sacramento, California 95814

Dear Chairman Cortese:

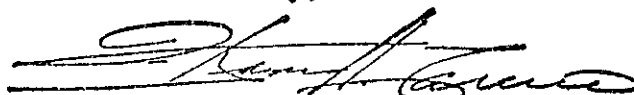
Re: AB 2674 (Connelly)
Proposed Amendments to Brown Act

The City Council, at their regular meeting of February 5, 1986, unanimously opposed the above captioned Assembly Bill 2674 for the following reasons:

1. It prohibits the City from acting on off-agenda items, which could slow routine City business or handling last-minute items.
2. It allows the public to place items on the agenda directly, which would take away the Council's control of the staff's workload as well as their own.
3. No need has been documented justifying the bill.

Please advise us of your position on this bill at this time.

Sincerely,



J. Kenneth Caresio
City Manager/Clerk

JKC:mka

cc: Honorable Bill Lancaster, Assemblyman

LEGISLATIVE INTENT SERVICE (800) 666-1917

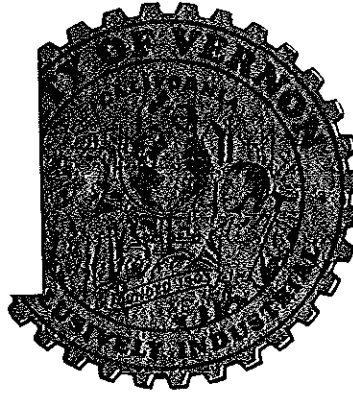


BARBARA BATEMAN
GOVERNMENTAL AFFAIRS

420 SANDBURG DRIVE
SACRAMENTO, CA 95819

(916) 456-4274

BUILDING DEPT. 583-8811
PUBLIC WORKS DEPT. 583-8811
HEALTH DEPT. 583-8811



CITY HALL

4305 SANTA FE AVENUE, VERNON, CALIFORNIA 90058

March 3, 1986

IN REPLY REFER TO:

OFFICERS

BRUCE V. MALKENHORST,
CITY ADMINISTRATOR/CITY CLERK

DAVID B. BREARLEY,
CITY ATTORNEY

ARTHUR E. NELSON,
DIRECTOR OF COMMUNITY SERVICES/HEALTH OFFICER

LEWIS R. ADAMS,
DIRECTOR OF WATER & POWER

GEORGE F. BASS,
FIRE CHIEF

AL ESPINOZA,
POLICE CHIEF

Honorable Dominic L. Cortese
Chairman,, Assembly Local Government
Committee
State Capitol
Sacramento, California

Re: AB 2674, Connelly. Open Meetings:
Local Agencies.
Set for hearing: March 11, 1986.
Assembly Local Government

Dear Mr. Cortese:

The City of Vernon is very much OPPOSED to the above measure.

This bill requires the city to post an agenda 72 hours before a regular meeting and 24 hours before a special meeting and it prohibits the city from acting on off-agenda items which typically involve routine non-controversial topics. This could stop or greatly slow routine city business or handling last-minute items. Nearly all significant policy actions a council takes already must be noticed pursuant to other laws.

Secondly, the measure would allow the public to place items directly on the council's agenda which would take away the council's control of the staff's workload as well as its own. There is no objection to citizens formally requesting that an item go on the agenda which is currently common practice.

We respectfully request your NO vote.

Sincerely,

Barbara Bateman
Governmental Affairs

cc: Members, Local Gov.
Assemblyman Connelly

LEGISLATIVE INTENT SERVICE (800) 666-1917





DONALD L. DEAR, *Mayor*
PAUL Y. TSUKAHARA, *Mayor Pro Tem*
JAMES W. CRAGIN, *Councilmember*
GWEN DUFFY, *Councilmember*
MAS FUKAI, *Councilmember*

CITY of GARDENA

1700 West 162nd STREET / GARDENA, CALIFORNIA 90247 / (213) 327-0220

MAY Y. DOI, *City Clerk*
GEORGE KOBAYASHI, *City Treasurer*
KENNETH W. LANDAU, *City Manager*
MICHAEL J. KARGER, *City Attorney*

February 10, 1986

The Honorable Dominic Cortese
Chairman, Assembly Local Government Comm.
State Capitol, Room 6031
Sacramento, CA 95814

Dear Assemblyman Cortese:

The City of Gardena respectfully requests your assistance in opposing AB 2674 (Connelly), Brown Act Reforms. Upon examination of the Bill, we find its components to be unwieldy, unnecessary, and without justification.

Oftentimes during the course of City business, we find it necessary to initiate immediate Council action to address a community problem. Enactment of AB 2674 will severely constrain local government's ability to react in a timely manner. Equally as distressing are the provisions for allowing the public to place items directly onto the Council agenda. We believe adequate mechanisms already exist to handle such requests.

Gardena is not in need of further constraints on its ability to conduct local business. Please join us in opposing AB 2674.

Sincerely,

DONALD L. DEAR
Mayor

DLD:js

cc: Assemblyman Richard Floyd
League of California Cities

LEGISLATIVE INTENT SERVICE (800) 666-1917



CITY COUNCIL

FLORUS C. WILLIAMS
MAYOR
JAMES R. HUGHES, D.D.S.
MORRIS G. FISHER
DAVID J. EATON
BOB RUSSELL
DONALD T. GASPERSOON
SUSAN L. WHITMAN



GARY W. BALES
CITY MANAGER
FRED SMITH
ADMIN. SERVICES DIRECTOR
CITY CLERK AND TREASURER
GEORGE C. THACHER
CITY ATTORNEY

CITY OF PACIFIC GROVE

300 FOREST AVENUE
PACIFIC GROVE, CALIFORNIA 93950
TELEPHONE (408) 373-1576

February 13, 1986

Assemblyman Cortese, Chairman
Assembly Local Government Committee
State Capitol Building
Sacramento, California 95814

Re: AB 2674

Dear Assemblyman Cortese:

The City of Pacific Grove would like to indicate its opposition to AB 2674 pertaining to amendments to the Brown Act. We believe the existing law adequately protects the public interest. We see no demonstrated need for the type of amendments being proposed.

This bill would require a long period of posting an agenda before an item could be acted upon. It limits any action to those items which are on the agenda. This would effectively limit a city's need to conduct non-controversial and routine items which do come up between the time the agenda is prepared and the meeting. All major business items are placed on the agenda and the public is protected by public hearing requirements on these types of items. In any event, these business items are conducted in an open meeting for the public and the press. Surely we do not have to be more restrictive than at present.

An especially disturbing item would allow the public to place items directly on the agenda. We already have a process where the public can submit agenda items and request Council consideration. We have a public comment time on our agenda. The proposed provision would create an administrative nightmare in trying to determine the agenda and business items to be covered at any one meeting.

The bill would render null and void any decision made in violation of the Brown Act even when such violation was not intentional. While this sounds reasonable, it could cause government to come to a complete halt pending any legal action. Surely existing law is adequate to address any abuse of the Brown Act.

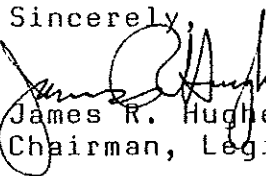
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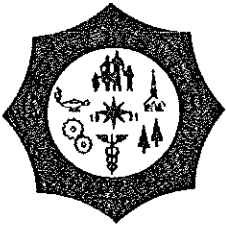
In considering this measure, we would ask that the Legislature determine if it could operate its business under these restrictions. If so, we would suggest that the bill be amended to cover the Legislature as well as local government.

We urge your opposition to AB 2674.

Sincerely,

James R. Hughes, D.D.S.
James R. Hughes, D.D.S.
Chairman, Legislative Committee

cc: Assemblyman Farr
Senator Mello
League of California Cities





City of **LYNWOOD**

A City Meeting Challenges

11330 BULLIS ROAD
LYNWOOD, CALIFORNIA 90262
(213) 603-0220

ROBERT HENNING, Mayor
LOUIS A. THOMPSON, Mayor Pro-Tem

Council Members
JOHN D. BYORK
E. L. MORRIS
EVELYN WELLS

February 11, 1986

Dear Assemblyperson,

I am writing in opposition to AB 2674 which proposes numerous amendments to the Brown Act.

These amendments could significantly hamper a city's ability to conduct business efficiently and effectively for several reasons. First, the bill prohibits a city from acting on items not on the agenda. This could stop or delay last-minute and emergency items. Second, the bill allows the public to place items directly on the agenda which would disrupt the city council and staff in planning their workload. In addition most cities have a mechanism for public input.

Finally, AB 2674 renders "null and void" a decision taken in violation of the Brown Act and allows 30 days to file a lawsuit against such action. This provision could lead lawsuits and unnecessary expense for just about every bond issue, public works project, development approval and the dismissal or demotion of an employee.

For these reasons, I hope you will oppose AB 2674.

Sincerely,

Robert Henning, Mayor
CITY OF LYNWOOD

LEGISLATIVE INTENT SERVICE (800) 666-1917





CITY OF CORONADO

OFFICE OF THE MAYOR
1825 STRAND WAY
CORONADO, CA 92118

Conroy B.
file
Send copy to
Mary Mac Millan
"R" "H" DORMAN
MAYOR
(619) 522-7322

February 6, 1986

League of California Cities
ATTN: Legislative Analyst
1400 "K" Street
Sacramento, CA 95814

ATTN: Legislative Analyst

In the Legislative Bulletin dated January 17 the League requested review and comment of AB 2674 (Connelly), Proposed Amendments to the Brown Act. Hence, ~~this matter was presented~~ before the Coronado City Council on February 4. Council has now gone on record in opposition to AB 2674 unless acceptable amendments are formulated. It is our understanding that the City Attorneys Association is working to develop such changes. The City Attorney for Coronado has been directed to keep Council informed of actions taken by the City Attorneys Association with regard to AB 2674.

Upon the assignment of AB 2674 to a Committee, we will contact Committee members asking them to oppose AB 2674.

Sincerely,

R H Dorman
"R" "H" Dorman
Mayor, City of Coronado

LEGISLATIVE INTENT SERVICE (800) 666-1917



RECEIVED

FEB 10 1986

TO _____



OFFICE OF THE CITY MANAGER

330 WEST TWENTIETH AVENUE
SAN MATEO, CALIFORNIA 94403
TELEPHONE: (415) 377-3300

February 5, 1986

Assemblyman Dominic L. Cortese
Assembly Office Building
Sacramento, CA 95814

Dear Dom:

I just noticed that your Assembly Local Government Committee will be considering AB2674 (Connelly), and I could not resist expressing my awe at the prospects of trying to manage local City Council meetings if this legislation passes. Can you imagine City Council members unable to raise new issues at Council meetings but enabling the public to automatically add any item they want to an already crowded agenda? Unbelievable!

Anyway, I thought I would express my opinion to you and respectfully seek your opposition to this legislation. Thanks.

Sincerely,

RICHARD B. DeLONG
CITY MANAGER

RBD:2647d

Handwritten note: 11/10/86

LEGISLATIVE INTENT SERVICE (800) 666-1917





City of National City Office of the City Manager

1243 National City Boulevard, National City, Ca. 92050-4397 (619) 477-1181
Tom G. McCabe—City Manager

February 3, 1986

Chairman Cortese and Members of the
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

RE: AB 2674 - Brown Act Bill

It has been brought to our attention that your committee will soon consider AB 2674 (Connelly) which places additional restrictions on ~~Brown Act items.~~

The City of National City desires to go on record as opposing this measure due to the additional hardships it imposes ~~in preparation of City Council agendas.~~ We feel that this legislation could greatly slow down routine City business or handling of last-minute items by prohibiting the City from action on off-agenda items.

Additionally, the requirement that the public place items directly on the agenda is unnecessary in light of the fact that the public is openly encouraged to participate at Council meetings. Allowing the public to place items directly on the agenda could significantly increase staff workload and take away the Council's control of their own workload.

We respectfully request a NO vote and thank you in advance for considering our position.

Sincerely,


Tom G. McCabe
City Manager

xc: Mayor and City Council
League of California Cities

LEGISLATIVE INTENT SERVICE (800) 666-1917





CITY OF PETALUMA, *California*

778-4345

POST AND ENGLISH STREETS 94952 · TELEPHONE (707) ~~762-2645~~

February 10, 1986

Assemblyman Dominic L. Cortese, Chairman
and Members of the Assembly
Local Government Committee
State Capitol
Sacramento, California 95814

Subject: AB 2674 (Connelly) Brown Act Bill

Dear Chairman Cortese and Members:


The City of Petaluma wishes to state its firm opposition to AB 2674. Cities are already criticized for taking too long to respond to the needs of the community. AB 2674 main "benefit" to the people will be to further delay required action by the Council.

The Brown Act, we feel, places sufficient safeguards for providing open meetings and public actions by local government.

Allowing the public to routinely place items directly on agendas would further complicate the agenda process and could raise havoc on local government staffs in trying to prepare or respond to various unplanned for items.

We urge you to vote "NO" on AB 2674. We don't need it - and the public doesn't need it.

Very truly yours,


Fred V. Mattei
Mayor

FVM:da

cc: League of California Cities
Assemblyman Filante
Senator Keene

LEGISLATIVE INTENT SERVICE (800) 666-1917



Reporters' notebooks

Los Angeles City Hall

Council remains partial to hyper-speed legislation

By JOYCE PETERSON
and MARY ANN MILDORFF
Daily News Staff Writers

When Los Angeles City Council members got caught last summer sneaking through a pay raise for themselves via a last-minute addition to their agenda, some state legislators started pushing for advance notice requirement.

After last week's rush of last-minute legislation, the push in the state legislature could come to a head in favor of a tough new law requiring 72 hours advance

notice of items to be considered in public meetings.

City officials have said it was unrealistic to require that agendas be printed three days ahead of time in a city the size of Los Angeles where major emergencies can require immediate action. Besides, council members claimed, they had cleaned up their act to at least provide full public disclosure of last-minute items.

But that claim was in tatters last week when council members rambled frantically to get major business out of the way so

they could fly off to Washington D.C.

After completing their Tuesday calendar, the council raced through seven last-minute additions, most of which were anything but routine. During one hectic 10-minute period the council started assessment proceedings in the Bryant-Vanalden area in Northridge, took sides in a lawsuit over condors, extended a private law firm's contract for cable television litigation and supported \$85 million in tax-exempt financing for the Coliseum.

There was no way the press or public could know the items were coming up. Some were still being distributed as roll calls were taken. Some had been scrawled out by hand and reproduced on the copying machines in the next room.

Even career bureaucrats had a tough time keeping up with the council action.

"I used to think I had a good handle on what the council was doing," said one top city financial adviser. "But now they have completely lost me."

High-tech redistricting

Maybe computers are smarter than people when it comes to drawing political boundary lines. There was a great deal of fuss over the map developed by the Mexican American Legal Defense Educational Fund which sought to create a second Hispanic City Council district. Councilman John Ferrero was not amused at MALDEF's plan to achieve this goal by moving his Fourth District to East Los Angeles.



PROBLEMS AND ALTERNATIVE SOLUTIONS

<u>Bill Provision</u>	<u>Problem</u>	<u>Possible Alternatives</u>
1. Applies to both charter and general law cities	Charters may conflict	Exempt charter cities from 54954.2, and 54954.3 (Charters can provide for this if citizens want it)
2. Requires agenda to be posted 72 hours prior to the meeting, and prohibits action on anything not on the agenda (Sec. 1, p. 3, lines 1-20)	Posting is no problem. "No action" provision prevents council from acting promptly (in response to public requests) on noncontroversial items like street closing for parades, release of developer's bonds, repair requests, resolutions honoring someone, rapid action on pending legislation, increased authorizations of money for repairs that are more extensive than originally thought, etc.	Either (a) require council to announce and describe add-on, vote to act, get public input, then act, or (b) require city to create a simple procedure for anyone to request reconsideration of items that were not on the agenda.
152 3. Allows general public to place items on the agenda (Sec. 2, p. 3, line 21 - p. 4, line 18)	Council loses control of its agenda, a major problem in university communities and similar communities. Councils might delegate items they now act upon, even though they have no legal requirement to do so. City Commissions could have a particularly major agenda control problem, especially human rights and planning commissions.	Require all public agencies to provide a simple procedure for the general public to request items go on the agenda (most cities do this).
4. Requires closed sessions to be included on the posted agenda. (Sec. 4, p. 5, line 38 - p. 6, line 1)	Causes potential litigation problems, and not likely to yield a public benefit. Cities (just as state agencies now do) will place a boiler plate notice on their agendas for closed sessions, in case the need for one comes up, and a person challenging a personnel action, lawsuit settlement, etc., will assert that the notice had to be specific, which could negate the purpose of some closed sessions.	Strike this provision. The provisions of the Brown Act requiring the Council to announce the closed session and the reason for it will still apply.



Bill Provision

Problem

Possible Alternatives

5. Actions violating the agenda posting requirement, the prohibition on acting on agenda add-ons, and the general open meeting requirement are "null and void." 30 days are allowed to challenge the action. (Sec. 5, p. 6, lines 6-17)

The provision (a) voids actions in violation of the Brown Act, even if a lawsuit is never brought; and (b) places a chilling effect for 30 days on all council actions. For example, no public works contract could be started until the period for suit had expired, and if suit were brought, the contract couldn't start until the lawsuit concluded, because if the city lost the suit, the contractor couldn't be paid even if the work were done. Bond issues would be jeopardized, and could require validating lawsuits. The same would be true of development approvals, demotion or dismissal of employees, and decisions to file or dismiss lawsuits, etc. The people penalized by the "null and void" provision are therefore not usually the people accused of violating the Brown Act.

The League believes that the present penalties of misdemeanor enforcement and injunctive relief are quite adequate, when coupled with the major embarrassment elected officials suffer when the local press accuses them of a violation of the Brown Act. However, a possible alternative, which is more likely to get the attention of potential violators, would be a civil fine of up to \$500 against people who knowingly or recklessly violate the Brown Act, to be paid to the city's general fund by the violator. This would hit the official's pocketbook, and the Act already provides for attorney's fees if suit is brought for enforcement.

153

cbab2674/leg



MEMBER
WAYNE GRISHAM
ELI M. HARRIS
SUNNY MCDONNELL
MAXINE WATERS



Assembly California Legislature

1100 J STREET, FIFTH FLOOR
SACRAMENTO 95814
TELEPHONE (916) 324-7513

Subcommittee on the Administration of Justice

LLOYD G. CONNELLY
CHAIRPERSON

LETTIE YOUNG
COUNSEL

ROSEMARY SANCHEZ
SECRETARY

To: Deputy Legislative Counsel M. Upson

From: Gene Erbin

Subject: Amendments to AB 2674 as amended 3/3/86

Date: March 5, 1986

Please prepare amendments to AB 2674 as follows:

- 1) Page 4, lines 5 and 6 delete: "and employees of the local agency."
- 2) Page 4, lines 21 and 24 delete: "formal written."
- 3) Page 5, line 20 substitute "may" for "shall."
- 4) Page 6, lines 11 and 12 delete: "and employees of the local agency."
- 5) Page 7, line 4 substitute "those" for "the."
- 6) Page 8, line 25 rewrite to read: "an action by mandamus or injunction ..."
- 7) Page 9, between lines 7 and 8 add subdivision (c) to read:

(c) Upon a showing by the legislative body that an action alleged to have been taken in violation of either Section 54953, 54954.2, or 54956 has been cured or corrected by a subsequent action of the legislative body, an action filed pursuant to subdivision (a) shall be dismissed with prejudice.

LEGISLATIVE INTENT SERVICE (800) 666-1917



MEMBERS
WAYNE BRIDGES
ELIHO M. HARRIS
SUNNY MCGONNEN
MAXINE WATERS



Assembly California Legislature

1001 STREET 14TH FLOOR
SACRAMENTO 95834
TELEPHONE (916) 324-7597

Subcommittee on the Administration of Justice

LLOYD G. CONNELLY
CHAIRPERSON

LETTIE YOUNG
COUNSEL

ROSEMARY SANCHEZ
SECRETARY

To: Deputy Legislative Counsel M. Upson

From: Gene Erbin

Subject: Amendments to AB 2674

Date: March 5, 1986

Handwritten notes:
AB 2674
1/27/86
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Please prepare amendments to AB 2674 as follows:

- 1) Page 4, lines 25 and 26 delete: "failure to take action will result in serious harm to the public and that".
- 2) Page 8, line 30 change "30" to "60".
- 3) Page 8 between lines 34 and 35 add a new subdivision to read:

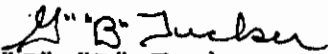
(b) Prior to an action being commenced pursuant to subdivision (a), a written demand shall be made of the legislative body to cure or correct an action alleged to have been taken in violation of either Section 54953, 54954.2, or 54956. The demand shall be in writing and clearly describe the challenged action and nature of the alleged violation. The demand shall be made within 30 days from the date the action was taken. The legislative body shall cure or correct the challenged action or inform the demanding party in writing of its decision not to cure or correct the challenged action within 15 days of receipt of the demand. Thereafter, any action filed pursuant to subdivision (a) shall be commenced within 15 days. In no event, shall any action be commenced pursuant to subdivision (a) later than 60 days from the date the challenged action was taken.



It appears to be the habit of our supervisors to conduct public business under the agenda heading of New Business which generally appears as one of the last items to be discussed. What is needed is a reality check to determine what business conducted by supervisors should be conducted in public and properly noticed to the public.

The purpose of the Brown Act is to allow the people to know what public servants are going about so the people may remain informed and retain control over the bodies they have created and are funding.

Sincerely,


"G" "B" Tucker
12225 Buckeye Road
Nevada City, CA 95959
(916) 265-6323

cc: Member of Assembly - Lloyd Connelly
Member of Assembly - Ross Johnson
Member of Assembly - Wally Herger



Linda Broder, President

STATEMENT IN SUPPORT OF AB 2674 CONNELLY

TO: Members of the Assembly
Committee on Local Government

DATE: March 6, 1986

The League of Women Voters of California supports AB 2674 (Connelly). We have a long-standing commitment to open meetings which are broadly publicized, offer opportunities for public comment, and encourage public participation.

We believe that AB 2674 strengthens the Brown Act, and addresses two areas of particular concern to the League.

Sections 54954.2 and 54954.3 would require the posting of a specific agenda of all items of business, give the public more advance notice time, and permit the public to place items on the agenda directly related to the business of the legislative body.

Those sections would help to promote an open governmental system that is representative, accountable, responsive, and that assures opportunities for citizen participation in government decision making.

Section 54960.1 provides a mechanism by which actions taken in violation of the Brown Act (as they apply to regular and special meetings) can be declared "null and void." It authorizes those actions taken in violation of the Brown Act be subject to judicial challenge for a period of 30 days. Currently, there is no law which permits the invalidation of illegal actions, a serious deficiency, the League believes. Government must be responsible and accountable for its actions, and citizens should have the right and the mechanism to challenge actions taken in violation of the law.

For these reasons, the League of Women Voters of California enthusiastically supports AB 2674.





CALIFORNIA
TAXPAYERS
ASSOCIATION
SUITE 600 • 921 11th ST
SACRAMENTO CA 95814
(916) 441-0490

March 5, 1986

The Honorable Dominic L. Cortese
Chairman, Assembly Local Government
Committee
State Capitol, Room 6031
Sacramento, California 95814

SUBJECT: AB 2674 (Set for
hearing Assm Loc Govt
Cmte, March 11, 1986)

Dear Dom:

I writing to inform you of Cal-Tax's support of AB 2674 (Connelly), a proposal to strengthen the state's open meeting law by requiring local government meetings to be run according to an adhered-to agenda, allowing the public to present matters to local legislative bodies, and reducing the abuse of closed sessions.

A more economic and efficient government operation is one of the important purposes served by open meetings and full citizen participation in them.

Sincerely,

John H. Sullivan
Vice President and
General Counsel

JHS:km

cc: The Honorable Lloyd G. Connelly
The Honorable Ross Johnson
All members, Assembly Local Government
Committee
Casey Sparks, Principal Consultant

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511
SACRAMENTO 95814
(916) 445-9555

Toll Free - California Only:
800-952-5225

March 7, 1986

Honorable Dominic L. Cortese
Chairman, Assembly Local Government
State Capitol, Room 6031
Sacramento, California 95814

Dear Assemblyman Cortese:

AB 2674 (CONNELLY) - OPEN MEETINGS

The Attorney General's office urges you to support AB 2674, which will be heard by the Local Government Committee on March 11.

Although the Brown Act (Gov. Code, § 54950 et seq.) requires local legislative bodies to provide advance, public agendas for special or emergency meetings (Gov. Code, §§ 54956, 54956.5), there is no similar requirement of agendas for regular meetings. AB 2674 fills this loophole by now requiring binding agendas for regular meetings.

Existing law authorizes any interested party to seek injunctive or declaratory relief to stop or prevent anticipated violations of the open meeting requirements of the Brown Act (Gov. Code, § 54960). There is, however, no remedy available if the local legislative body has already acted in violation of the act. AB 2674 closes this loophole by providing a new remedy permitting any interested party to have actions taken in violation of the Brown Act declared null and void.

Such suits would have to be commenced within 30 days of the challenged action. Acts which are in "substantial compliance" with the open meeting requirement would be exempt from attack, and the board or commission may remedy any flaw by simply curing or correcting the error pursuant to the requirements of the Brown Act.

AB 2674 essentially conforms the Brown Act, regulating local legislative bodies, to the amendments made last year to the Bagley-Keene Open Meeting Act, regulating state agencies, made by AB 214 (Connelly). (Stats. 1985, ch. 936.)

The Attorney General supported last year's legislation to put real teeth in the requirement that the public be given notice of proceedings conducted by state agencies. We support

Honorable Dominic L. Cortese
Page Two
March 7, 1986

AB 2674 again this year since there is no justification in policy or practice why the public should receive less notice and opportunity to be heard before local governmental agencies.

We urge your support for the measure.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

Allen Sumner

ALLEN SUMNER *msb*
Senior Assistant Attorney General
(916) 324-5477

AS:lb

Robanita Lindsay
328 Harding Ave.,
Los Gatos, Ca. 95030
March 2, 1986

Robert Ingle, Editor,
San Jose Mercury News
750 Ridder Park Drive,
San Jose, Ca. 95190

Dear Mr. Ingle,

The "Spirit of the Law" inherent in the policy declaration of the Ralph M. Brown Act clearly states the position taken by the citizens of California. "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 them 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." Unfortunately, the "Letter of the Law" is not so precisely stated.

The Brown Act itself contains no meaningful notice and agenda requirements, and no meaningful remedy for violations. Acting entirely within the letter of the law, the spirit of the law has been repeatedly violated by some who are in positions of power and responsibility within city and county governmental bodies. The Act as it now stands is deficient. It is subject to either willful or careless abuse by elected representatives.

Legislation addressing these shortcomings of the Brown Act has been introduced by Assembly Members Lloyd G. Connelly (D-Sacramento) and Ross Johnson (R Fullerton).



As proposed by Connelly and Johnson, Assembly Bill 2674 will require local governing and deliberative bodies to post agendas for all regular and special meetings so that citizens can learn beforehand specifically what business will be considered and transacted. Secondly, AB 2674 will allow citizens to go to court to have any actions taken in violation of the Brown Act declared 'null and void'.

Assemblyman Connelly said, "This is an important bill because it puts sharp teeth into the Act. Right now, the Act is toothless."

Assemblyman Ross Johnson said AB 2674 "...deserves bi-partisan support, because it gives real meaning to the idea that citizens can participate in government and retain some degree of control over their own government."

Assembly Bill 2674 is presently in the Committee process and is scheduled to be heard by the Local Government Committee in Sacramento, March 11, 1986.

Assemblyman Dominic Cortese (D-San Jose) is chairman of this important Committee. As a former Chairman of the Board of Supervisors of Santa Clara County, Cortese should agree with the principle that good local government can come about and flourish only if the people being represented are adequately and consistently informed about the day to day public business being conducted by their elected officials.

Supervisor Eric Rood, a long time member and past Chairman of the Board of Supervisors of Nevada County, recently agreed publically that AB 2674 should receive the full support of the Board of Supervisors on which he serves, as well as from the members of city councils within Nevada County.

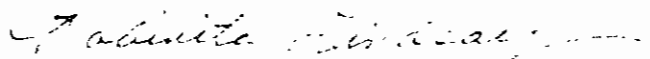
In order to responsibly represent their constituents, the members of other County Boards of Supervisors and City Councils throughout the State should also endorse AB 2674 without reservation or delay.

In discussing the importance and timeliness of AB 2674, Supervisor Rood asked the rhetorical question, "Who would vote against it!?" "Who" indeed! Certainly no responsible elected representative would consider for a moment not supporting legislation which would unquestionably serve the best interest of his or her constituents as well as their respective communities.

As citizens of California we have the obligation to let our local and state representatives know our thoughts on this critical issue. How they vote and what support they lend to the passage of this legislation will be indicative of how well or how poorly they really do represent us. Whether they choose to endorse AB 2674, or fail to support it, will help to determine what actions we must take at the polls when it comes "our turn" to vote.

For their own good, and that of all citizens, the residents of Santa Clara County should, before March 10, contact Assemblyman Dominic Cortese to let him know their thoughts regarding this important legislation. They should also get in touch with their other local and state elected officials and urge each of them to vigorously support Assembly Bill 2674.

Sincerely,



Robinita Lindsay

cc: ~~Assemblyman~~ Dominic Cortese
Chairperson, Board of Supervisors, Susanne Wilson
Assemblyman Ernest L. Konnyu
Assemblyman John Vasconcellos
Senator Dan McCorquodale
Senator Rebecca Morgan
Senator Alfred E. Alquist
Assemblyman Lloyd G. Connelly
Assemblyman Ross Johnson
Senator Milton Marks.

County Supervisors Association of California

March 10, 1986

The Honorable Lloyd Connelly
Member of the Assembly
Room 2179, State Capitol
Sacramento, California 95814

RE: Assembly Bill 2674 (Connelly)

Dear Assemblyman Connelly:

The County Supervisors Association of California (CSAC) supports the state's open meeting laws and supports your interest in ensuring adequate public notice of items considered by local government. This letter describes the concerns we have with AB 2674. Although we do not oppose the bill, we do believe some amendments are necessary.

As introduced, we had several concerns regarding the agenda requirements established by the bill. Recent amendments, however, have removed most of our concerns in this regard. We remain concerned regarding the "serious harm" finding that must be made in order to add an item to the agenda.

There are numerous non-controversial, non-substantive matters which frequently arise at the last minute. Some examples are: "ceremonial" actions, such as adjourning the meeting in the memory of deceased individuals, directing flags to be flown at half-staff, and special presentations; actions directing county departments to prepare reports and recommendations and to report back to the board of supervisors; receiving and filing staff reports; adopting traffic regulation orders; and authorizing applications for grant funds. I am sure you can appreciate the frustration and inefficiency that would result if such items had to be postponed a full week just to be considered. Yet, under the bill as worded, they could not be added to the agenda because the failure to consider them would not result in "serious harm." We believe the "serious harm" language ought to be deleted.



CSAC EXECUTIVE COMMITTEE: President, LESLIE K. BROWN, Kings County • First Vice President, CAL McELWAIN, San Bernardino County • Second Vice President, BARBARA SHIPNUCK, Monterey County • Immediate Past President, STEPHEN C. SWENDIMAN, Shasta County • MICHAEL D. ANTONOVICH, Los Angeles County • KAY CENICEROS, Riverside County • FRED F. COOPER, Alameda County • JERRY DIEFENDERFER, San Luis Obispo County • ROBERT E. DORR, El Dorado County • ROLLANO STARN, Stanislaus County • HILDA WHEELER, Butte County • LEON WILLIAMS, San Diego County • JOE WILLIAMS, Glenn County • SUSANNE WILSON, Santa Clara County • ADVISORS: County Administrative Officer, Robert E. Hendrix, Humboldt County • County Counsel, James Lindholm, Jr., San Luis Obispo County • Executive Director, LARRY E. NAAKE

Sacramento Office / 1100 K Street, #101 / Sacramento, CA 95814-3941 / 916/441-4011 ATSS 473-3727
Washington Office / 440 First St., N.W., Suite 503 / Washington, D.C. 20001 / 202-783-7575

The Hon. Lloyd Connelly
March 10, 1986
Page 2

We are also uncomfortable with the words "suddenly and unexpectedly." Depending upon how literally they are interpreted, they could create an unreasonably restrictive standard. We support your intent of limiting the addition of items to those that arose after the posting of the agenda. Since, by definition, that standard would exclude any items that were known about but left off the agenda, we think the "suddenly and unexpectedly" language is unnecessary.

We do not object to the super-majority requirement for adding an item to the agenda, but we believe it should be two-thirds of the members present and not two-thirds of the whole board. Otherwise, absences could unnecessarily prevent action.

Our principal concerns with the bill have to do with the "null and void" remedy set forth in Section 4. The public should be able to rely on the finality of actions taken by its governmental representatives. The nullification of government action will erode that expectation substantially. It will create significant uncertainty where presently there is none. Although the State's open meeting law does contain a "null and void" provision, there is a world of difference between state agencies and counties. State agencies do not legislate, they do not represent constituents, their actions are not subject to referendum.

We believe the bill should require that any person seeking to challenge an action of the legislative body first serve a written demand on the legislative body, specifying the challenged action and demanding that it be cured. We believe such a written demand should be a condition precedent to filing a lawsuit. We would not object to extending the statute of limitations to provide a reasonable period of time for the filing and processing of such a written demand. The bill should clearly provide that a cure or correction is not an admission of a Brown Act violation and is not admissible to prove one. If the agency cured the challenged action within the time prescribed, the complainant would not be entitled to any other relief.

Recognizing the importance of preserving finality as to certain actions, the Legislature specified certain exceptions which were incorporated into the state's open meeting law and which have been incorporated into your bill. We believe the bill should include a fifth exception. Counties administer the planning and zoning laws whereas the State does not. The finality of these land-use decisions should be protected. If a person obtains a rezoning and undertakes financial commitments toward development in reliance on that rezoning, that person should not be made to suffer economic hardships by the invalidation of the rezoning at

The Hon. Lloyd Connelly
March 10, 1986
Page 3

some future date. The victim in such a scenario will be the individual. It will not be the county. It will not be the board of supervisors. This bill should contain language to prevent that.

There is another compelling reason for such an exception. Most land-use decisions are already subject to independent statutory notice requirements. For example, Government Code Section 65854 requires that any proposed rezoning be advertised by publication in a newspaper, at least ten days before the hearing. This statutory notice requirement provides for more advanced notice than this bill would. We see no reason why such land-use matters should be included within the scope of your bill. We are in the process of listing the the land-use actions subject to such independent notice provisions, and we will provide you with the list as soon as it has been completed.

I want to thank you, your staff and the sponsor of this bill for your assistance and thoughtful consideration of the significant issues which this bill touches. We appreciate the many helpful discussions.

If you have any questions regarding our position or would like any additional information, please let me know.

Very truly yours,

COUNTY SUPERVISORS ASSOCIATION
OF CALIFORNIA



Mark A. Wasser
General Counsel

MAW:cb

cc: Hon. Dominic Cortese, Chair, Assembly Local Government
Members, Assembly Local Government
Consultant, Assembly Local Government
County Caucus





Gil Archuletta, MAYOR
Jan Dennis, MAYOR PRO TEM

COUNCIL MEMBERS
C.R. "Bob" Holmes
Russell F. Lesser
Jim Walker

John Allan Lacey
CITY CLERK

Duncan Kelly
CITY TREASURER

March 4, 1986

Assemblyman Dominic Cortese
Chair Assembly Local Government Committee
California State Assembly
State Capitol
Sacramento, California 95814

Dear Mr. Cortese:

The City of Manhattan Beach would like to express its strong opposition to AB 2674. This bill, through its provisions concerning the open meetings of local agencies, would pose serious problems to the efficient workings of local government.

We oppose AB 2674 on three grounds. First, this bill would prevent action by city councils on last-minute or off-agenda items. This would severely constrain the ability of city councils, and thus cities, to work effectively: the council's hands would be tied in such important matters as appropriating funds for emergencies, handling citizen requests for service, and taking positions on pending legislation.

AB 2674 would also inhibit the effectiveness of city councils and staffs by allowing the public to place items on the city council agenda directly. Public control of council agendas would usurp much of a local government's ability to plan and manage its workload. We feel that citizen participation is important in public meetings, but that such participation should not overwhelm the efficient workings of local agencies.

Finally, the bill's provision to render "null and void" a decision taken in violation of the Brown Act even if the violation was not intentional will create serious problems for cities. Actions taken in such areas as bond issues, development approvals, litigation, and labor relations could be challenged with numerous lawsuits at great expense to local taxpayers.

AB 2674 is designed to open the workings of local governments to the public. Although the bill's goal is good, its means would paralyze city government.

Your opposition to AB 2674 would be greatly appreciated. Thank you for giving this matter your attention.

Sincerely,


Gil Archuletta
Mayor

LEGISLATIVE INTENT SERVICE (800) 666-1917



1515 K STREET, SUITE 511
SACRAMENTO 95814
(916) 445-9555

Toll Free - California Only:
800-952-5225

March 7, 1986

Honorable Dominic L. Cortese
Chairman, Assembly Local Government
State Capitol, Room 6031
Sacramento, California 95814

Dear Assemblyman Cortese:

AB 2674 (CONNELLY) - OPEN MEETINGS

The Attorney General's office urges you to support AB 2674, which will be heard by the Local Government Committee on March 11.

Although the Brown Act (Gov. Code, § 54950 et seq.) requires local legislative bodies to provide advance, public agendas for special or emergency meetings (Gov. Code, §§ 54956, 54956.5), there is no similar requirement of agendas for regular meetings. AB 2674 fills this loophole by now requiring binding agendas for regular meetings.

Existing law authorizes any interested party to seek injunctive or declaratory relief to stop or prevent anticipated violations of the open meeting requirements of the Brown Act (Gov. Code, § 54960). There is, however, no remedy available if the local legislative body has already acted in violation of the act. AB 2674 closes this loophole by providing a new remedy permitting any interested party to have actions taken in violation of the Brown Act declared null and void.

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The Attorney General supported last year's legislation to put real teeth in the requirement that the public be given notice of proceedings conducted by state agencies. We support



Honorable Dominic L. Cortese
Page Two
March 7, 1986

AB 2674 again this year since there is no justification in policy or practice why the public should receive less notice and opportunity to be heard before local governmental agencies.

We urge your support for the measure.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

ALLEN SUMNER
Senior Assistant Attorney General
(916) 324-5477

AS:lb

ACLU

AMERICAN CIVIL LIBERTIES UNION
CALIFORNIA LEGISLATIVE OFFICE
1127 11th Street, Suite 602 ☐
Sacramento, California 95814
Telephone (916) 442-1036 ☐

March 7, 1986

The Honorable Lloyd Connelly
State Capitol - Room 22179
Sacramento, California 95814

Re: AB 2674 - Support

Dear Assembly Member Connelly:

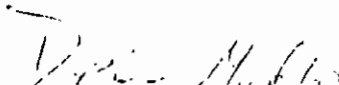
The ACLU is pleased to inform you of our support for AB 2674 relating to open meetings of local agencies.

The ACLU believes that all meetings of any legislative or administrative body of the nation, state, city or any subdivision thereof -- including any board, commission, authority, council, agency, or committee, and also including subcommittees or subordinate groups of the above bodies -- should be open to the public. Meetings shall be defined as those gatherings of the body at which the official business of the body is or may be considered or transacted, including any informal or formal discussion, commitment, promise, consensus, decision or vote on any such business.

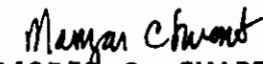
Each such body, where appropriate, shall have a regular schedule of meetings which shall be made public, and special meetings shall be held only upon reasonable notice to all members of such body and to the media. Minutes shall be taken of all open meetings, and the same shall be matters of public record. Minutes shall also be taken of all closed session and shall be available to any court reviewing the action of said body.

Closed session may only be held in certain limited circumstances involving litigation, personnel matters or employee contracts. AB 2674 advances this policy.

If we may be of further assistance to you in this matter please do not hesitate to contact our office.


DAPHNE L. MACKLIN
Legislative Advocate

Very truly yours,


MARJORIE C. SWARTZ
Legislative Advocate

MCS/dlm

cc: Members and Consultant, Assembly Local Government Committee

Daphne L. Macklin, Legislative Advocate • Marjorie C. Swartz, Legislative Advocate • Rita M. Egn, Legislative Assistant
ACLU of Northern California • Dorothy M. Ehrlich, Executive Director 1663 Mission Street, Suite 460 • San Francisco, 94103 • (415) 621-2493
ACLU of Southern California • Ramona Ripston, Executive Director 633 South Shatto Place • Los Angeles 90005 • (213) 487-1720

Cal-Tax

CALIFORNIA
TAXPAYERS
ASSOCIATION
SUITE 800 • 921 11th ST
SACRAMENTO CA 95814
(916) 441-0490

W

March 5, 1986

The Honorable Dominic L. Cortese
Chairman, Assembly Local Government
Committee
State Capitol, Room 6031
Sacramento, California 95814

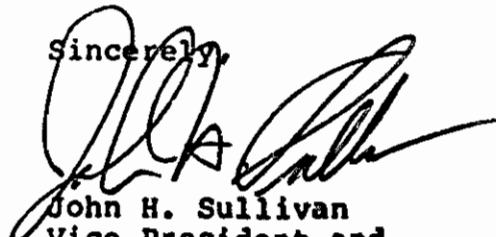
SUBJECT: AB 2674 (Set for
hearing Assm Loc Govt
Cmte, March 11, 1986)

Dear Dom:

I writing to inform you of Cal-Tax's support of AB 2674 (Connelly), a proposal to strengthen the state's open meeting law by requiring local government meetings to be run according to an adhered-to agenda, allowing the public to present matters to local legislative bodies, and reducing the abuse of closed sessions.

A more economic and efficient government operation is one of the important purposes served by open meetings and full citizen participation in them.

Sincerely,



John H. Sullivan
Vice President and
General Counsel

JHS:km

cc: The Honorable Lloyd G. Connelly
The Honorable Ross Johnson
All members, Assembly Local Government
Committee
Casey Sparks, Principal Consultant

AMENDMENTS TO ASSEMBLY BILL NO. 2674
AS AMENDED IN ASSEMBLY MARCH 3, 1986

Amendment 1

On page 4, lines 14 and 15, strike out "and employees of the local agency"

Amendment 2

On page 4, line 21, strike out "formal written"

Amendment 3

On page 4, line 24, strike out "formal written"

Amendment 4

On page 5, line 20, strike out "shall" and insert:

may

Amendment 5

On page 6, line 11, strike out "and" strike out line 12 and insert a period

Amendment 6

On page 7, line 4, strike out "the" and insert:
those

Amendment 7

On page 8, strike out line 25 and insert:
an action by mandamus or injunction

Amendment 8

On page 9, between lines 7 and 8, insert:
(c) 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 either Section 54953, 54954.2, or 54956 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.

- 0 -

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- 0 -

LEGISLATIVE INTENT SERVICE (800) 666-1917

FRIENDS OF WESTWOOD, INC.
1015 GAYLEY AVENUE, SUITE 1063
LOS ANGELES, CA 90024

March 6, 1986

Assemblyman Dominic Cortese, Chair
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

RE.: AB 2674

Dear Assemblyman Cortese:

Friends of Westwood, Inc. is a nonprofit organization with several hundred members residing in greater Westwood. We strongly urge your support of AB 2674 because we are concerned with the lack of proper notice by the City of Los Angeles.

The fundamentals of due process are violated by the City Council and by the various commissions that make critical decisions about our city's future. Here is just one example:

In 1985 the Los Angeles Planning Commission considered a major new transportation-land-use control ordinance. This citywide measure was not on the agenda of the Commission. Friends of Westwood, Inc. and one other organization testified on the subject because we were personally contacted by our Councilman who knew of our interest in this item. The entire development of the City of Los Angeles rides on this measure. Yet notice was not provided.

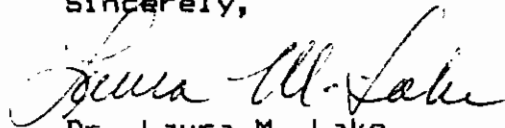
Let me give you an example of what happens when we do receive notice through the agenda:

A proposed project in Westwood requested the first exception to the 1981 Wilshire Boulevard Scenic Corridor Specific Plan. Because it was properly noticed on the Council's Agenda, I received a call from a landuse specialist who called it to my attention. I was able to reach our Councilman via phone when he was on the floor of the Council to ask him to table the measure until the community had met and discussed the merits of the issue. He agreed. Had it not been for the Council Agenda, the measure would have gone forward without our knowledge or consent. Proper notice is invaluable.

The City of Los Angeles plays a game of cat and mouse with its citizenry. It takes liberty with the law and dares citizens to sue in court to protect their interests. This

"catch us if you can" attitude is no way to run a representative democracy. We in Los Angeles desperately need AB 2674.

Sincerely,



Dr. Laura M. Lake
President

cc: Assemblyman Bill Lancaster
Assemblyman Charles Calderon
Assemblyman Lloyd Connolly





MARY LOU HOWARD
Mayor
CITY OF BURBANK



March 5, 1986

Hon. Dominic Cortese, Chairman
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

Dear Assemblyman Cortese:

I am writing on behalf of the City of Burbank Council to urge your opposition of Assembly Bill 2674. As we see it, the primary provisions of the bill are:

1. That a city must post an agenda 72 hours before a regular meeting and 24 hours before a special meeting, and may not act on off agenda items.
2. That the public may place items on a City Council Agenda directly.
3. That decisions made in violation of the Brown Act, even when the violation was not intentional, are null and void.

The City of Burbank has an extensive oral communications section during Council meetings. Quite frequently during oral communications items are brought up by the public which are not on the agenda, but which the people would like the Council to act on. Very often these items bring about discussion regarding a problem and prompts the Council to request action by City staff. Assembly Bill 2674, by specifying that a Council may not act on off agenda items, would prohibit the Council from acting on any items brought up by any citizens during oral communications or any other time during the meeting. We feel this would severely hamper the operations of the City.

In addition, the fact that this Assembly Bill would allow the public to placed items indirectly on a City Council Agenda could cause a great deal of problems for the staff. Burbank citizens may at this time request that the Council place an item on the agenda and there is, of course, no problem with this procedure. However, if citizens could place items directly on the agenda the Council would lose control of exactly what the staff is and is not working on, in addition to losing control of the staff's workload and their own. This same problem could occur to various City committees, such as the Planning Commission.



Hon. Dominic Cortese
March 5, 1986
Page Two

It has come to our attention that the Assembly Local Government Committee will be hearing this bill on March 11. We urge you to oppose A.B. 2674 in the interest of the citizens who we feel would actually end up the losers.

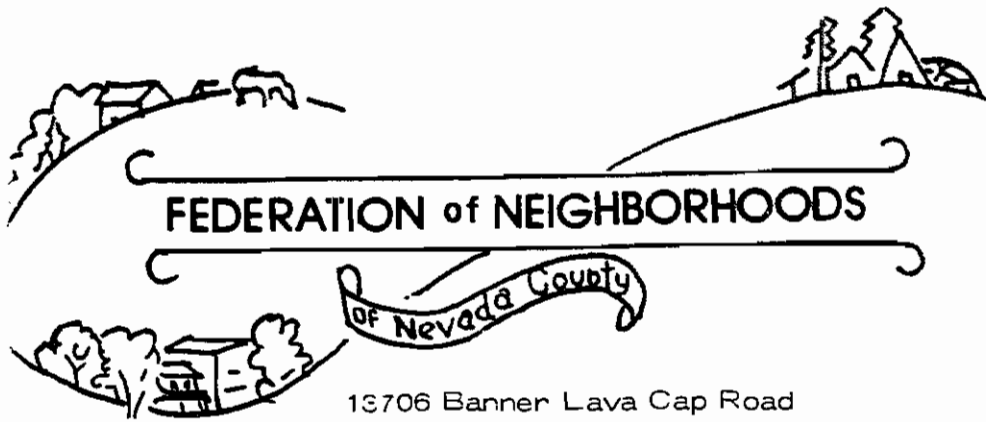
Sincerely,



Mary Lou Howard
Mayor

mc





13706 Banner Lava Cap Road
Nevada City, California 95959

March 1, 1986

Mr. Lloyd Connelly
2705 K Street
Suite 6A
Sacramento, California 95816

Dear Mr. Connelly:

I have been authorized to write to you on behalf of the Federation of Neighborhood Associations of Nevada County in support of Assembly Bill #2674.

The Federation is a non-profit organization composed of twenty-three homeowner groups and associations located in Nevada County. The basic purpose of the Federation is to establish, maintain and protect optimum living conditions for all present and future residents of Nevada County. One of the most influential factors in determining the kind and quality of life in Nevada County is the ever-increasing role that local government plays in the daily lives of its citizens.

The Federation has taken a lead in encouraging the general public to initiate and pursue responsible action in community affairs. People are becoming increasingly aware of the obligations and benefits of a well-informed and united citizenry. They want responsive, reliable and equitable local government and are willing to do whatever they can to achieve it.

Federation members acknowledge that the provisions of the Ralph M. Brown Act, as it now stands, have brought a measure of reliability



California

Common Cause

March 7, 1986

... citizens working for better government . .

To: All Members of the Assembly Local Government Committee
From: Steve Barrow, Legislative Advocate

RE: AB 2674 by Assembly Member Lloyd Connelly -- Concerning Local Government's Open Meeting Law - The Brown Act

Scheduled for Hearing Tuesday, March 11, in Assembly Local Government Committee

California Common Cause urges you to vote Aye on AB 2674. This bill simply requires a local government body to post its specific agenda 72 hours in advance of its regular meeting, and provides for provisions to allow the public to challenge actions taken in violation of the Brown Act.

Currently the Brown Act contains no agenda requirements for regular meetings.

And, according to the California Department of Justice's publication on California's Open Meeting Laws (The Brown Act): "Though one might believe that the taking of action by a legislative body in secret, when the law requires such action to be taken in an open meeting, should and would void the action, such is not the case. The courts have consistently stated that the action is still valid."

The people of this state, at the state government and local government level, have not relinquished their independent political authority to the agencies created to serve them. As the Brown Act states: "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 they may retain control over the instruments they have created." AB 2674 makes the Brown Act meaningful in this regard.

State agencies are under the Bagley-Keene Open Meetings Act, which provides a similar mechanism for voiding an action taken in violation of the Act (AB 214, Chapter 936, 1985). There is no justification that state agencies should be held accountable to the public and its open meeting laws and local government should not.

AB 2674 retains the safeguards in the Brown Act to insure local government actions which require closed sessions (i.e. personnel issues, litigation), or more timely action (i.e. disasters, states of emergency).

California Common Cause urges your Aye vote for AB 2674 in Assembly Local Government Committee this coming Tuesday, March 11. If you have any questions regarding this issue or Common Cause's position, please do not hesitate to give me a call at (916) 443-1792.

STATE HEADQUARTERS

926 J STREET, STE. 910
SACRAMENTO, CA 95814
(916) 443-1792

636 SO. HOBART BLVD., STE. 226
LOS ANGELES, CA 90005
(213) 387-1817

1535 MISSION STREET
SAN FRANCISCO, CA 94
(415) 864-3060

AP - 31b



CITY MANAGER

CITY OF SAN JOSE, CALIFORNIA

801 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95110
(408) 277-4000

March 7, 1986

RM

The Honorable Lloyd Connelly
Member, State Assembly
California Legislature
Room 2179, State Capitol
Sacramento, California 95814

RE: Assembly Bill 2674

Dear Assembly Member Connelly:

The City of San Jose has reviewed and taken an oppose position on your bill, Assembly Bill 2674 relating to the Brown Act.

Like most cities, San Jose has a procedure for citizens to place items on meeting agendas, but it does not permit direct placement. This provision in AB 2674 would substantially alter the current agenda-setting process. The bill allows the public to place items on an agenda directly, but prohibits a city from acting on an item not on the agenda.

Secondly, the voiding of any actions taken in unintentional violations of the Act will create lengthy and expensive challenge proceedings that would significantly impact what has heretofore been routine municipal business.

If you have any questions concerning the position of our City please contact our office at (916) 443-3946.

Sincerely,


ROXANNE L. MILLER-MOSLEY
Legislative Representative

RLM/kh

cc: Assembly Member Dominic Cortese

LEGISLATIVE INTENT SERVICE (800) 666-1917

CITY OF SANTA BARBARA

SHEILA LODGE
Mayor



CITY HALL
DE LA GUERRA PLAZA
P.O. DRAWER P-P
SANTA BARBARA, CALIFORNIA 93102
TELEPHONE (805) 963-0611 EXT. 201

March 6, 1986

Assemblyman Dominic L. Cortese, Chairman
Assembly Local Government Committee
State Capital
Sacramento, California 95814

Dear Assemblyman Cortese:

The Santa Barbara City Council unanimously urges the Assembly Local Government Committee to reject AB 2674 (Connelly).

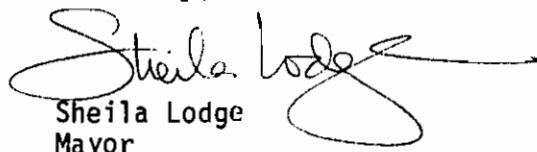
Under AB 2674, our City would be required, for the first time, to post an agenda item at least 72 hours in advance. This provision would apply not only to the City Council, but to every other City Board, Commission, and Committee which is subject to the Brown Act. This provision would eliminate our Ex-Agenda system, and would make it impossible to respond expeditiously to sudden problems. This provision ignores the City's legitimate need to act upon an item not appearing on the published agenda in certain circumstances.

AB 2674 would also require our City to adopt reasonable regulations to ensure that members of the public can address any item on the agenda. It is ironic that the State Legislature allows no public input at its meetings, and yet is so quick to impose such a role on local governments.

Perhaps the most significant problem with AB 2674 is that it would make any action taken in violation of the Brown Act "null and void". Such an invalidation action should be rejected because of the uncertainty it would create in local government decision making processes.

For the above reasons, I urge that your Committee swiftly reject AB 2674. I would be pleased to answer any further questions you might have about my observations on AB 2674.

Sincerely,


Sheila Lodge
Mayor

SL/lg

cc: Senator Gary Hart
Assemblyman Jack O'Connell
League of California Cities

CITY OF DOWNEY JS
11111 BROOKSHIRE AVE
DOWNEY CA 90241-8016 10AM

Western
Union Mailgram



4-0460535069 03/10/86 ICS IPMRNCZ CSP SACB
2138697331 MGMB TDRN DOWNEY CA 55 03-10 0635P EST

THE HONORABLE DOMINIC L CORTESE, CHAIRMAN
ASSEMBLY LOCAL GOVT COMMITTEE
ROOM 6031, STATE CAPITAL
SACRAMENTO CA 95814

DEAR CHAIRMAN CORTESE,

THE DOWNEY CITY COUNCIL OPPOSES AB 2674 (CONNELLY) IN ITS PRESENT
FORM. WILL SUPPORT IF AMENDMENTS PROPOSED BY THE LEAGUE OF
CALIFORNIA CITIES ARE ADOPTED. THANK YOU FOR YOUR SUPPORT.

SINCERELY,

THE DOWNEY CITY COUNCIL

18:36 EST

MGMC DMP

5241 (R 7/82)



M SZADW6(1337)(1-888651A1069)PB 13/12/86 1337

IDS IPBYNP RND

12181 REND NV 03-10 1031A PST RYNG

IDS IPNSZ04

4-0206435069 03/11/86

IDS IPNRNCZ CSP

714 6244531 TORN CLAREMONT CA 95 03-10 7129P EST

PMS ASSEMBLYMAN DOMINIC CORTESE, CHAIRMAN

LOCAL GOVERNMENT COMMITTEE RPT OLY NOM, CLR

STATE CAPITOL

SACRAMENTO CA 95814

1200 AVB TO 10:11
REPORT DELIVERY

ON BEHALF OF THE CLAREMONT CITY COUNCIL, I AM CONVEYING THE CITY'S
OPPOSITION TO AB2674 (CONNELLY), BROWN ACT AMENDMENT, WHICH WILL
AMEND THE OPEN MEETINGS LAW. WE SPECIFICALLY OPPOSE THE FOLLOWING
BILL PROVISIONS:

1. A CITY COUNCIL MAY NOT ACT ON OFF-AGENDA ITEMS DUE TO RESTRICTIVE

AGENDA POSTING REQUIREMENTS.

2. THE PUBLIC MAY PLACE ITEMS DIRECTLY ON A CITY COUNCIL AGENDA.
WE URGE YOU TO VOTE AGAINST THESE UNNEEDED AND DESTRUCTIVE AMENDMENTS
WHEN AB2674 IS HEARD IN COMMITTEE ON MARCH 11.

SINCERELY

EMID H DOUGLASS, MAYOR
CITY OF CLAREMONT
207 HARVARD AVE
CLAREMONT CA 91711

1031 EST

NNN



League of California Cities

1400 K STREET • SACRAMENTO, CA 95814 • (916) 444-5790

California Cities
Work Together

AB 2674 (Connelly) - Brown Act: Description of Substantive and Technical Issues and Possible Solutions

SUBSTANTIVE ISSUES -

(1) The bill provides in Section 1, at page 3, line 22, that items that arise "suddenly and unexpectedly" may be added to the agenda. This provision is too inflexible to let councils and commissions add on routine matters, and matters that may have arisen after the agenda was prepared. The language should be stricken.

Alternative: Allow the item to be added if (a) a member of the legislative body, the city manager or the city attorney, believes it is an emergency or urgent matter and explains the item and the emergency or urgent nature of the item, and two-thirds of the legislative body concurs; or (b) the legislative body determines by a two-thirds vote that the matter is an administrative matter brought to the attention of the legislative body after the agenda was prepared and that immediate action is in the best interest of the public.

(2) The agenda notice requirements proposed by Section 1, at page 3, could be misused by opponents of a development approval. They may attack the adequacy of the agenda notice, in hopes of stopping the project, much as CEQA and the general plan law are now used.

Alternative: Since land use approvals have independent notice requirements. The bill should exempt from the agenda notice requirements actions for which notice must be sent pursuant to other requirements of statute or case law.

(3) Charters sometimes require posting or publication of agendas and provide procedures for adding on to agendas, and could conflict with this bill's provisions.

Alternative: Provide that where a charter provides for publication or posting of agendas, or for agenda add-on procedures, the charter governs.

(4) Section 2, at page 3, lines 27-30, of the bill provides for legislative bodies to provide for public input at their meetings. Los Angeles and San Francisco take their public input at meetings of standing committees. The section should be amended to allow for such processes.

. . . O V E R



TECHNICAL ISSUES

(1) Section 1, page 3, line 5, requires posting of a "specific" agenda. This term could result in challenges to actions claiming that proposed actions were not described in "specific" enough terms, particularly in cases where an item was modified to respond to public input.

Alternative: Use language such as "generally describe," "fairly describe" or the like.

(2) Section 1, page 3, line 19, requires a "finding" to add on to the agenda. The word "finding" connotes formal legal findings.

Alternative: Have council formally "determine" that the item arose after the agenda, and enter this in the minutes.

(3) The exemptions from the "null and void" provisions at page 6, lines 24-28, include contractual obligations with good faith reliance by a third party, and actions taken in connection with the "collection" of a tax. Does the bill intend to exempt competitively-bid contracts and levying or imposition of a tax? Cities don't collect many taxes and when they do, it is seldom seen by a legislative body.

(4) The bill will be amended in committee to provide an administrative procedure to seek cures of Brown Act violations prior to a lawsuit being filed. (a) So that cities and the public will know when a cure has been affected, the bill should spell out how alleged violations may be cured, such as by noticing the agenda item and reconsidering the action at an open meeting. (b) The bill allows a council to cure an action or refuse to change its original action. The bill needs to provide that if a city does neither following receipt of the demand, that the nonaction is deemed to be a refusal to act.





SACRAMENTO MUNICIPAL UTILITY DISTRICT

P. O. Box 15830, Sacramento CA 95852 1830, (916) 452 3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

71

March 10, 1986

The Honorable Lloyd Connelly
The Assembly
State Capitol Room 2179
Sacramento, CA 95814

Dear Lloyd:

AB 2674 OPEN MEETINGS: LOCAL AGENCIES

The March 3, 1986, amendments to AB 2674 have resolved most of the District's concerns.

We remain, however, concerned with a couple of points: 1) the wording in Section 54954.2 requiring the posting of a specific agenda item for business to be "discussed" at a public meeting. We can see no reason why items should not be discussed without "72 hours" notice, so long as no action is taken; 2) the District would like some clarification as to the meaning of "serious harm", as used in 54954.2(b). Does this include economic harm? If so, we believe the language in Section 54954.2(b) represents a reasonable compromise on this issue.

The Sacramento Municipal Utility District is quite pleased with these amendments, and we want to thank you very much for both you and your staff's cooperation in trying to resolve our problems. If you would like to discuss the bill, I would be happy to meet with you at your convenience.

Sincerely,

Stuart E. Wilson
Supervisor
State Government Affairs

cc: Steve Barrow, Common Cause
Members, Assembly Committee on Local Government
Casey Sparks, Principal Consultant

LEGISLATIVE INTENT SERVICE (800) 666-1917



DISTRICT OFFICE
FORT SUTTER BUILDING
2705 K STREET, SUITE 6
SACRAMENTO, CALIFORNIA 95834
445 1183

CAPITOL OFFICE
STATE CAPITOL
SACRAMENTO, CALIFORNIA 95834
445 2484

Assembly California Legislature

COMMITTEES
WAYS AND MEANS
JUDICIARY
ENVIRONMENTAL SAFETY
AND TOXIC MATERIALS
AGING & LONG TERM CARE

SUBCOMMITTEES
CHAIR ADMINISTRATION OF
JUSTICE
STATE ADMINISTRATION
HEALTH & WELFARE

LLOYD G. CONNELLY
MEMBER OF THE LEGISLATURE
SIXTH ASSEMBLY DISTRICT

March 11, 1986

The following newspapers have published editorials supporting AB 2674:

LOS ANGELES TIMES	THE OCEANSIDE BLADE TRIBUNE
SAN JOSE MERCURY NEWS	THE ESCONDIDO TIMES-ADVOCATE
ORANGE COUNTY REGISTER	LONG BEACH PRESS-TELEGRAM
THE SACRAMENTO UNION	THE OAKLAND TRIBUNE
THE SACRAMENTO BEE	THE SAN MATEO TIMES
THE BAKERSFIELD CALIFORNIAN	SALINAS CALIFORNIAN
THE TEHACHAPI NEWS	VAN NUYS DAILY NEWS
THE FRESNO BEE	BELVEDERE CITIZEN
OAKDALE LEADER	SANTA RAPPARA NEWS-PRESS
VISALIA TIMES DELTA	THE UNION (Grass Valley-Nevada City)



Los Angeles Times

A Times Mirror Newspaper

Publishers

HARRISON GRAY OTIS, 1882-1917
 HARRY CHANDLER, 1917-1944
 NORMAN CHANDLER, 1944-1960
 OTIS CHANDLER, 1960-1980

TOM JOHNSON, *Publisher and Chief Executive Officer*

DONALD F. WRIGHT, *President and Chief Operating Officer*

WILLIAM F. THOMAS, *Editor and Executive Vice President*

VANCE L. STICKELL, *Executive Vice President, Marketing*

LARRY STRUTTON, *Executive Vice President, Operations*

JAMES D. BOSWELL, *Vice President, Employee and Public Relations*

WILLIAM A. NIESE, *Vice President and General Counsel*

JAMES B. SHAEFFER, *Vice President, Finance and Planning*

GEORGE J. COTLIAR, *Managing Editor*

ANTHONY DAY, *Editor of the Editorial Pages*

JEAN SHARLEY TAYLOR, *Associate Editor*

Cutting Down Secrecy

California's Brown Act requires boards of supervisors, city councils, water districts, school boards and other local bodies to conduct business in public. The broad protections are good for democracy, but an action that violates the law can remain valid and secrecy is rarely, if ever, penalized. Those weaknesses need correcting.

Assembly Bill 2674 would strengthen the Brown Act and make it easier to enforce. The California Legislature should make it law.

The new legislation would require policy bodies to post a specific agenda at least three days before a regular meeting and one day before a special session. No items could be added during a meeting. The new requirement would prevent cunning council members from hiding controversial motions until the last moment. Exceptions would be made for genuine emergencies, and the exemption for discussing personnel matters would remain.

Had the changes been in effect last year, members of the Los Angeles City Council could not have sneaked through a motion for a 10% pay raise, identified only by number and not by topic, without public discussion or public notice.

Had the new enforcement provision been in effect, the council's action could have been redressed without proof of criminal intent. Superior Court Judge Raymond Cardenas subsequently

found that the process had violated the spirit, but not the letter, of the Brown Act. He struck down the pay raise, however, because he found that it violated a provision of the city Charter.

AB 2674 would allow any action, found in violation of the law by a court, to be declared void automatically. Sneakiness would no longer pay off. That is significant, because there is no record of a successful criminal prosecution of the Brown Act, according to Assemblyman Lloyd G. Connelly (D-Sacramento), one of the bill's sponsors.

Connelly's co-sponsor is Assemblyman Ross Johnson (R-La Habra). That bipartisan support indicates that both Democrats and Republicans support the precepts of good government. The attorney general, the California District Attorneys Assn. and the League of Women Voters also support the measure. Common Cause, the citizens' lobby, is the original sponsor.

A similar measure, sponsored by Connelly during the last legislative session, tightened up the Bagley-Keene Open Meeting Act, which governs meetings of state agencies just as the Ralph M. Brown Act governs meetings of local agencies.

Local officials may chafe at the new restrictions. They may protest that the requirements would slow government business. Secrecy may speed some decisions, but that efficiency is at the expense of democracy. AB 2674 deserves passage.

Visalia, CA
(Tulare Co.)
Times Delta
(Cir. 6xW. 20,137)

FEB 3 - 1986

Allen's P. C. B. Est. 1888

Open meeting bill a must

On June 5, 1965, at a meeting of the Los Angeles City Council, Councilman Burt Snyder asked the council president for a suspension of the rules to take them up Item 53. That item had neither appeared on the council's agenda nor had it been posted in public. But there was no objection from other members, and the council president asked for discussion. When no member of the council wished to speak, the president called for a vote.

Item 53, never identified and never read in public, passed without objection.

Not until the next day, when the mayor signed the ordinance, did the people of Los Angeles learn what the council had wrought: a 10 percent salary increase for council members, the mayor, the city attorney and the city controller. It was all perfectly legal.

That kind of conduct would be prohibited under AB 2674, by Assemblymen Lloyd Connelly and Ross Johnson. AB 2674 revises the Brown Act, California's open meetings law, to require local agencies to post agendas for all regular and special meetings and to prohibit action on any item not on the agenda. Such requirements already exist for school and community college boards and state bodies.

And to put teeth into the Brown Act, the bill would also authorize private citizens and groups to sue local agencies that try to hide their actions. The courts would be given the authority to strike down actions taken without proper notice or at illegally closed local meetings. The Legislature last year passed a similar provision applying to state agencies.

Open meetings are vital to free government. But open meetings, by themselves, are not enough if officials can obscure their actions. By removing the shadows where timid local governments now hide from public controversy, AB 2674 would strike a blow for accountability and responsiveness.

San Jose Mercury News

ROBERT D. INGLE, *Senior Vice President and Executive Editor*
JEROME M. CEPPOS, *Managing Editor*
JENNIE BUCKNER, *Managing Editor/Afternoon*

ROB ELDER, *Editor*

DEAN R. BARTEE, *Senior Vice President*
JOHN B. HAMMETT, *Senior Vice President*
EUGENE L. FALK, *Vice President/Operations*
KATHY YATES, *Assistant to the Publisher/Director of Finance*

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Editorials

Sunday, March 9, 1986

6P

Doing it in public

A bill would allow people to nullify actions taken in secret by local agencies

FOR almost two decades, California law has required local governments and state agencies to conduct their business in public. Unfortunately, the law contained no enforcement teeth — until last year.

In 1985, for the first time, Californians were able to go to court to nullify actions taken in secret by state agencies.

Now, the people need similar leverage against city councils and county boards of supervisors that insist on skirting the intent of the law. Assembly Bill 2674, by Sacramento Democrat Lloyd G. Connelly, gives them that leverage.

Connelly's proposal will be considered, and should be approved, by the

Assembly Local Government Committee Tuesday. AB 2674 puts teeth in the Ralph M. Brown Act, which has required local governments to conduct the public's business in public since 1953 but which has never imposed adequate penalties for violations.

In addition to giving the people the power to invalidate laws made in secret, AB 2674 requires local legislative bodies to post their agendas three days in advance of regular meetings.

It also forbids the addition of unscheduled, last-minute items. The Los Angeles City Council took advantage of this loophole in the Brown Act last June to vote itself a 10 percent pay raise.

The pay raise was called up by a council member who identified it simply as agenda "Item 53." It won passage by unanimous consent. The people of Los Angeles didn't learn what the council had done until the next day.

The Brown Act needs strengthening in just the manner Connelly's bill provides.



Editorial

Brown Act amendment is worthy of your support

by Pam Stowell

Very few pieces of legislation have done more for guaranteeing the public "the right to know" than the Ralph M. Brown Act.

The Brown Act, as it is referred to, requires (with some exceptions) that all meetings of legislative bodies be open and public, including meetings of city councils, school boards, county boards of supervisors and planning commissions. The meetings of many other local government entities are also covered by the Brown Act.

Through this important legislation, the public gained the right to attend governmental meetings, and ask questions and have them answered.

However, some legislators believe the Brown Act has some real deficiencies, particularly in its neglect to enforce its statutes. Assemblyman Lloyd G. Connelly (R-Sacramento) is one of those representatives, and has introduced a bill, AB 2674, that proposes major amendments to the Brown Act.

Joining Connelly as principal co-authors are Assemblyman Ross Johnson (R-Fullerton) and Senator Milton Marks (D-San Francisco).

The bill proposes two major improvements to the Brown Act: to require local entities to post specific agendas for their meetings 72 hours in advance of regular meetings and 24 hours prior to special meetings; and to authorize private citizens and organizations to seek and obtain judicial invalidation of actions taken in violation of the Brown Act.

Presently, there is no provision in the Brown Act that requires local entities to publish agendas of their meetings. Moreover, the practice of "add-on" agenda items will be halted. AB 2674 requires the posting of specific agendas so that citizens can learn beforehand what business will be transacted at meetings of local governmental entities.

Also under the bill, individuals would gain the right to challenge any action they feel is in violation of the Brown Act, and a court would have the authority to declare any action "null and void."

AB 2674 is just one more step to provide you, as citizens, a chance to speak out. We at the *Tehachapi News* urge your support of this important legislation.

JANUARY 30, 1986

PRESS-TELEGRAM

604 Pine Avenue, Long Beach, California 90844 / Telephone 435-1161

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A move to tighten Brown act provisions

Putting a bicuspid or two into anti-secrecy law.

California's Ralph M. Brown Act states a simple ideal: that the public's business shall be done in view of the public.

Public officials manage to get around the act a good deal of the time. They hold closed meetings with vague explanations. They leave town on "retreats." In one notorious case last year, the Los Angeles City Council members suspended their rules and voted unanimously for Item 53. The item wasn't on the meeting agenda. No one would have known what it was if an alert reporter hadn't checked later and discovered that Item 53 gave council members a 10 percent pay raise.

Did that violate the spirit of the Brown Act? You bet. Did it violate the letter of the law? Nope. And if it had, the only remedy under current law would have been criminal prosecution of the council members. No such criminal prosecution has ever been undertaken. It's unlikely one ever will be. It's even less likely such a prosecution would be successful. So the current law is obeyed only to the extent that the press, public opinion and concerned public officials manage to persuade government bodies to obey it. Their success in doing so is spotty.

Legislation to make the Brown Act a bit more effective has been

introduced by Assemblymen Lloyd G. Connelly, D-Sacramento, and Ross Johnson, R-Fullerton. Their bill, AB 2674, would require local government agencies to post specific agendas before meetings, and it would allow citizens to go to court to have actions taken in violation of the Brown Act declared null and void.

The bill wouldn't cure all local government secrecy problems, but it would put a stop to stunts like the Item 53 pay raise. It would block the practice of adding last-minute items to agendas and then voting on them without discussion in the hope reporters won't notice. And, when the Brown Act is violated, it would give John or Mary Citizen a chance to ask a court to say so and require the government agency involved to handle the action involved all over again in the light of day.

The bill is endorsed by the California District Attorneys Association. The DAs are tired of having to tell concerned citizens that they won't take on the almost impossible task of prosecuting Brown Act violators. "Take 'em to court yourself," the district attorney will be able to say. "If you win, the court can order the local agency to pay the court costs and your legal fees."

That holds some promise of deterring Brown Act violations. AB 2674 should become law.



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B-8 Tuesday, March 4, 1986

Oakland, California

Beef up the Brown Act

The state Open Meetings Act generally works well to keep public bodies in public view. Known as the Brown Act, the law requires that local elected bodies meet openly except under well-defined exceptions, so that citizens can participate in and monitor their proceedings.

But that doesn't stop entities from testing the law to its limits, and sometimes getting away with actions that may be legal but do damage to the law's intent.

Only after a recent Los Angeles City Council approved "Item 53" on its agenda did the public find out the otherwise unidentified item was a motion for a council pay raise. In another instance, the Pasadena City Board approved a proposal for a controversial rock concert endorsed by Nancy Reagan after the concert was brought up as a non-agenda item.

Both actions fell within the letter of the Brown Act, but did not serve well the cause of public access to key decisions made by local governments.

Now, a bipartisan-backed bill in the Legislature would toughen weak spots in the law, making it harder for local elected officials to slip through its loopholes. Co-sponsored by liberal Lloyd Connelly, D-Sacramento, and conservative Ross Johnson, R-Fullerton, in the Assembly, AB 2674 deserves support.

AB 2674 proposes two major amendments to the Brown Act that would strengthen its notice and agenda requirements and provide legal remedies now lacking for violations.

One amendment would require city councils, county boards of supervisors and boards of special districts to post specific agendas including the subject matter of all items no

later than 72 hours before regular meetings or 24 hours before special meetings. No action could be taken on items not on the agenda nor could additional items be added.

The other amendment would allow the public to petition a court to declare "null and void" actions taken by any local body that are later declared in violation of the Brown Act.

The League of California Cities objects to the amendments as too strict. Its members want to retain the flexibility to add non-controversial items to city council agendas closer to the time of meetings.

But public school and community college districts already operate under rules requiring posting of specific agendas 48 hours in advance of regular meetings and 24 hours ahead of special meetings. And state agencies operate under even tougher mandates that require that agendas be mailed to interested citizens 10 days in advance. City, county and special district boards can do as well.

The amendments won't change the prerogative of all elected bodies to convene emergency meetings within 24 hours with no advance agenda postings required. Local jurisdictions hit by natural disaster, public service strikes or any number of legitimate crises must retain the power to act swiftly to protect the public welfare.

Connolly favors the amendments because they provide needed enforcement teeth for the Brown Act. Johnson says they will help citizens "retain some degree of control over their own government." Wherever their support comes from, the amendments will help an already good law work better.



Salinas, CA
(Monterey Co.)
Californian
(Cir. 6xW. 23,602)

JAN 17 1986

Allen's P. C. B. Est. 1888

A remedy to secrecy

Last year, the Legislature moved half-way toward toughening the state's open meetings law. This year, it should finish the job.

A bill signed into law last year allows citizens to sue to have actions of state agencies overturned if they violated the state's Brown Act. That act requires government bodies to make decisions in public and to post public notice of meetings.

Now, Assemblymen Lloyd Connelly, D-Sacramento, and Ross Johnson, R-La Habra, are sponsoring a bill that would apply similar standards to local government boards and councils.

The 32-year-old Brown Act has been a valuable wedge for the public and news media to use to gain access to public

business. But its value has been undermined by the fact that it carries with it little enforcement clout. The law carries no penalties unless criminal intent can be proven, which is nearly impossible.

So, if a citizen fights for access to a public meeting, he may win the satisfaction of having a court say he's right, that the law should be enforced. Then, the offending agency lets him into the next meeting, no penalties are issued, the decisions made secretly remain in force.

Allowing citizen suits to overturn secret actions would recognize the fact that, in a democracy, public participation is a mandatory part of the process.

Without it, an act has no validity, and the court should be allowed to say so.

Van Nuys, CA
(Los Angeles Co.)
Daily News
(Cir. D. 135,010)
(Cir. Sat. 145,767)
(Cir. Sun. 122,031)

JAN 20 1986

Allen's P. C. B. Est. 1888

Editorials

No more secret raises?

No more stealth city councils? That remains to be seen. But at least it may be more difficult in the future for the Los Angeles City Council to raise its pay in secret, as it so adroitly did June 5.

Assemblyman Lloyd Connelly, D-Sacramento, introduced a bill Wednesday that would require city councils and other local governments to post specific meeting agendas to tell the public, in advance, what they are doing. Connelly said his measure (an amendment to the state's open-meeting law, the Ralph M. Brown act) was expressly designed to prevent actions like that of the Los Angeles City Council, which quietly voted itself a 10 percent raise over two years through an agenda item identified to the press and public only as "Item 53." Only after the fact did observers of the meeting realize what had happened.

The action was later overturned in court, but not because of secrecy. Superior Court Judge Irving A. Shimer noted that the council's conduct obviously violated the spirit of the Brown Act, but he had to grant that the act does not require notice of all actions to be taken at a given meeting — as long as the meeting itself is open. And this meeting was open, although a key part of the agenda was secret. So the raise was invalidated on the grounds the council took liberties with the City Charter provision allowing it no more than one 5 percent raise every year. By giving itself 10 percent at once to cover the next two years, the council had

given itself the second-year raise too early.

The council hardly seemed chastened by this setback. Later in the summer, it was found to be placing last-minute motions on the agenda almost routinely. On its meeting of Aug. 20, for instance, it brought out seven such surprise items; on Aug. 28, it acted on three zoning motions for which written copies were not even distributed to council members, much less the press. All this was legal, the city attorney's office said. If that was so, then clearly there had to be a change in the law.

Connelly's bill, AB 2674, would make the necessary revisions. Not only would it require agenda items to be posted in advance, but it would make that provision enforceable by allowing citizens to sue to have an unannounced council action overturned in court. The bill deserves bipartisan support and quick passage.

That's not to say it will ensure open government throughout the state. One bill won't close all the potential loopholes in the Brown Act, nor will it discourage secretive city councils and their sympathetic legal counsel from inventing new dodges. It's a constant struggle to keep public business open to the public, and the Brown Act, much amended since its original passage in 1953, probably will have to be revised again and again. But every time the Brown Act is tightened, local officials do have a tougher time finding ways to hide from the public. That's progress.

Fresno, CA
(Fresno Co.)
Bee
(Cir. D. 129,955)
(Cir. S. 152,301)

Glue

FEB 1 - 1986

Allen's P. C. B. 1st 1986

A cure for sneaky government

60
On June 5, 1985, at a meeting of the Los Angeles City Council, Councilman Burt Snyder asked the council president for a suspension of the rules to take up item 53. That item had not appeared on the council's agenda nor had it been posted in public. But there was no objection from other members, and the council president asked for discussion. When no member of the council wished to speak, the president called for a vote. Item 53, never identified and never read in public, passed without objection.

Not until the next day, when the mayor signed the ordinance, did the people of Los Angeles learn what the council had wrought: A 10 percent salary increase for council members, the mayor, the city attorney and the city controller. It was all perfectly legal.

That kind of conduct would be prohibited under AB 2674, co-authored by Assemblymen Lloyd Connelly and Ross Johnson. AB 2674 would revise the Brown Act, the open

meeting law, to require local agencies to post agendas for all regular and special meetings and to prohibit action on any item not on the agenda. Such requirements already exist for school boards, community college boards and state bodies.

And to put teeth into the Brown Act, the new legislation would also authorize private citizens and groups to sue local agencies that try to hide their actions. The courts would be given the authority to declare null and void actions taken without proper notice or illegally closed local meetings. The Legislature last year passed a similar provision applying to state agencies.

Open meetings are vital to free government. But open meetings, by themselves, are not enough if local officials can obscure their actions. By removing the shadows where timid local governments now hide from public controversy, AB 2674 would strike a blow for accountability and responsiveness.

The Sacramento Bee

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Editorials

Closed Votes At Open Meetings

On June 5, 1985, at a meeting of the Los Angeles City Council, Councilman Burt Snyder asked the council president for a suspension of the rules to take up item 53. That item had neither appeared on the council's agenda nor had it been posted in public. But there was no objection from other members, and the council president asked for discussion. When no member of the council wished to speak, the president called for a vote. Item 53, never identified and never read in public, passed without objection.

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Brown Act, California's open meeting law, to require local agencies to post agendas for all regular and special meetings and to prohibit action on any item not on the agenda. Such requirements already exist for school and community college boards and state bodies.

And to put teeth into the Brown Act, the bill would also authorize private citizens and groups to sue local agencies that try to hide their actions. The courts would be given the authority to strike down actions taken without proper notice or at illegally closed local meetings. The Legislature last year passed a similar provision applying to state agencies.

Open meetings are vital to free government. But open meetings, by themselves, are not enough if local officials can obscure their actions. By removing the shadows where timid local governments now hide from public controversy, AB 2674 would strike a blow for accountability and responsiveness.



Oakdale, CA
(Stanislaus Co.)
Leader
(Cir. W. 4.717)

FEB 5 - 1986

Allen's P.C.B. 1000000

Our Opinion

W Closed meeting law needs help

Popular country western singer Charlie Rich had a big hit several years ago with his recording of "Behind Closed Doors." Rich, however, wasn't referring to how some government agencies work. He wasn't referring to California's open-meeting law, but perhaps he should have been.

Too many government agencies, including some locally, flirt with the legalities of doing business behind closed doors, over lunch or with giving proper and advanced notice to the public. This is wrong. It should be pure and simple illegal.

The current penalty for when agencies violate the open-meeting law is a slight slap on the wrist (usually a public reprimand or an editorial by a newspaper). More definite control and penalties are needed and help, hopefully, is on the way.

Last year, the state Legislature put a little bite into the open-meeting law covering state agencies. This year, it has a chance to do the same for the law covering local governments. It's about time.

Assemblymen Ross Johnson (R-Fullerton) and Lloyd Connelly (D-Sacramento) have introduced a bill that not only would strengthen existing requirements that local governments notify citizens of actions they plan to take, but it would also impose penalties on governments that fail to comply.

Under the existing Brown Act, passed in 1953, local legislative bodies such as city councils, school boards, water districts, board of directors and others, need only to post notices of upcoming meetings. The Johnson-Connelly proposal would require that they post specific agendas 72 hours before their meetings.

More importantly, however, the bill would allow courts to invalidate actions taken at meetings that do not comply with the law. This might discourage agencies from closing their sessions at the last minute.

Johnson and Connelly got together after the Fullerton assemblyman learned of the unorthodox manner in which Los Angeles City Council members voted themselves a 10 percent pay raise last summer. The pay increase was known only as "item 53" on the consent calendar and did not appear on the council's agenda and was not discussed in an open meeting prior the vote.

The increase was later voided because it exceeded the ceiling imposed in the Los Angeles City Charter. However, the council's vote was legal under the Brown Act, which certainly reveals a major flaw in the current Brown Act.

This is just one example of the arrogant manner in which governments sometimes handle what is euphemistically called the "public's business."

It's unfortunate that government officials seem to need constant reminding, but in order for our free society to remain free it is essential that people be fully aware of actions supposedly taken on their behalf. We must also have the power to nullify actions of which they were not made aware.

There is no foolproof way to ensure that government business is conducted in the "open."

But if governments continue to arrogate power unto themselves, they should at least have some incentive to do so in public rather than behind closed doors. And, if necessary, their actions should be nullified by the courts if illegal. The Johnson-Connelly bill is long overdue and is certainly needed.

LEGISLATIVE INTENT SERVICE (800) 666-1917

Support for reform

Bakersfield, CA
(Kern Co.)
Californian
(Cir. D. 88,887)
(Cir. S. 74,643)

FEB 9 - 1986

Allen's P. C. B. Est. 1888

It takes far more than just great, ethical principles eloquently articulated to make democracy work.

One of the tools that makes things work as well as they do is the Ralph M. Brown Act, California's anti-secret meeting law.

Despite an almost slavish fealty to it on the part of the media, and a *sotto voce* complaint — sometimes bordering on the bitter — by politicians and bureaucrats that it is an unneeded, insulting encumbrance, most dispassionate observers admit that the Brown Act is flawed.

There is a way to correct some of the problems in the form of AB2674 by Assemblymen Lloyd Connelly, D-Sacramento, and Ross Johnson, R-Fullerton.

The Brown Act requires that agencies notify the public of meetings and make decisions in public. There are exemptions, such as personnel matters and pending lawsuits, which may require confidential debate and deliberation.

AB2674 will plug two enormous loopholes. It will require that specific agendas be available to the public between 24 and 72 hours before a meeting, depending on the type of meeting; and it will allow a court to void actions that are taken if they are adopted illegally.

As things stand now, all the public has a right to know is that a body — such as a city council — is going to meet. Incredibly, what the meeting will be about need not be stated, making citizen preparation difficult, to say the least.

And, if the act is violated, there is nothing that anyone can do about it, except, perhaps, to try to embarrass the perpetrators.

Unfortunately, those who are most likely to disregard citizen rights normally don't embarrass too easily.

Lest some politicians start yelping about the added burden this will place on government, with a concomitant decrease in efficiency — the usual bromides that they try to get the public to swallow when

reforms are proposed — note that school districts, community college districts and state agencies already are operating under the new rules. They have been tested — and found to work — for a year, through corrective legislation to the Bagley-Keene Open Meeting Act, which governs state agencies, and the Education Code.

The new provisions apply only to two of the five types of meetings (regular and special) of government. Emergency, adjourned and continued meetings remain exempt, providing flexibility local officials may need occasionally.

One sample of what can happen:

The Los Angeles City Council decided it was time for a pay raise for its full-time, paid members (who number 15, but they generously included the mayor — who had to sign the bill — the city attorney and the city controller).

The matter was not included in the daily or supplemental printed calendar. The motion was not read prior to the vote and then by an obscure reference ("Item 53").

The dialogue of suspending procedural rules, taking the matter out of order, reading by item number only, adopting and forwarding to the mayor for signature takes 15 lines in a trial transcript and never makes reference to what the matter was about. A slow, out-loud reading takes 38 seconds.

In a taxpayer suit to void the action, the Los Angeles County Superior Court said the council's procedures were legal, and complied with the minimum requirements of the law. The Opinions of the Attorney General support that. The matter ultimately was voided because of a fluke relating to an ambiguity in the Los Angeles City Charter regarding maximum magnitudes of pay raises.

As Johnson says, "This bill deserves support because it gives real meaning to the idea that citizens can participate in government and retain some degree of control over their own government."



The Sacramento Union

THE OLDEST DAILY IN THE WEST
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Editorials

Toughen open meeting law

Last June, members of the Los Angeles City Council, without any notice to the public and without debate or discussion, unanimously approved "Item 53," an ordinance giving a 10 percent pay increase to themselves, the mayor and other top city officials. Mayor Thomas Bradley signed the ordinance the next day, but the resultant public uproar brought a law suit and a Superior Court judge overturned the council's action.

However, the judge didn't say the officials violated the state's open meeting law for local governments requiring advance notice and public discussion of agenda items. Thus did the court emphasize the toothless nature of the law, known as the Ralph M. Brown Act.

Now, however, a bill has been introduced to amend the law to require local entities to post specific agendas for meetings at least 72 hours before items are

acted upon. More importantly, it allows citizens to go to court to nullify actions taken in violation of the Brown Act.

Assemblymen Lloyd Connelly, D-Sacramento, and Ross Johnson, R-La Habra, are authors of the measure, indicating the bipartisan support for the bill (AB 267). Mr. Connelly was the author of a measure signed by Gov. Deukmejian last year adding similar enforcement provisions to the open meeting law covering state agencies.

The latest measure has broad support from law enforcement officials, but some local government officials don't like it because it impedes upon their "finality of action." This seems like a minimal problem compared with informing citizens about what their elected officials are voting for and letting citizens invalidate illegal actions of their government.



Editorial Page

Monday, Feb. 10, 1986

CC

SANTA BARBARA NEWS-PRESS

The public's business

None of it should be handled secretly

California generally has done well in prohibiting government bodies from meeting in private, away from the public's eyes and ears.

School districts and community college districts are required to tell the public in advance what items of business they plan to discuss. That's covered in the Brown Act. State agencies are required by the Bagley-Keene Open Meeting Act to tell all interested individuals in advance what they plan to discuss, so that the public can be on hand.

But the Brown Act needs more teeth in it. It deals with local governing bodies—city councils, county boards of supervisors, planning commissions. Its intention is clear: These bodies, with few exceptions, must handle the public's business

in public. But the act's weakness is that it doesn't provide any remedy for violations.

Assemblyman Lloyd G. Connelly, whose legislation last year strengthened the Bagley-Keene Act covering state agencies, wants to do the same with the Brown Act. His new bill would require local bodies to post their specific agenda well in advance of any regular or special meetings. But if a council or board did ignore this requirement and take actions in private, the courts would be authorized to declare these actions "null and void."

There is no hardship here on these governing bodies. Our system is designed with open doors for the citizenry. Connelly's new bill deserves the full support of the Legislature.

(800) 666-1917

LEGISLATIVE INTENT SERVICE



Santa Ana, CA
(Orange Co.)
Register
(Cir. D. 279,452)
(Cir. Sat. 246,128)
(Cir. Sun. 311,062)

JAN 17 1986

Allen's P. C. B. Est. 1888

Government in the open

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Last year the state Legislature put some teeth into the open-meeting law covering state agencies. This year, it has a chance to do the same for the law covering local governments. It's long overdue.

A bill by Assemblymen Ross Johnson, R-Fullerton, and Lloyd Connelly, D-Sacramento, not only would strengthen existing requirements that local governments notify citizens of actions they plan to take, but it would also impose penalties on governments that fail to comply.

Under the existing Brown Act, passed in 1953, local legislative bodies such as city councils, school boards, boards of supervisors, water districts and many special districts need only post notices of upcoming meetings. The Johnson-Connelly bill would require that they post specific agendas 72 hours before their meeting.

Perhaps most importantly, the bill would allow courts to invalidate actions taken at meetings that do not comply with the law.

The Johnson-Connelly collaboration came about after the Fullerton assemblyman learned of the unorthodox manner in which Los Angeles City Council members voted themselves a 10-percent pay increase last June. The pay-increase issue, known only as "item 53," did not appear on the council's agenda,

and was not discussed in an open meeting prior to the vote.

Although the increase was later voided because it exceeded a ceiling imposed in the Los Angeles City Charter, the judge in the case admitted that the council's vote was legal under the Brown Act.

That's just one example of the arrogant manner in which governments sometimes handle what is euphemistically called the "public's business." It's unfortunate that government officials seem to need constant reminding, but in order for a free society to remain free it is essential that people be fully aware of actions supposedly taken on their behalf, and that they have the power to nullify actions of which they were not made aware.

There may be no foolproof way to ensure that government business is conducted in the "open." And operating in the open is still no substitute for a more widespread conviction that many of the actions governments take are none of their business in the first place.

But if governments continue to arrogate power unto themselves, they should at least have some incentive to do so in public rather than behind closed doors. To this end, the Johnson-Connelly bill is a welcome and overdue contribution.

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B-T editorial

Plug the loophole

The California Legislature this year will consider another bill to add teeth to the state's open meeting laws.

This year, AB 2874 proposes to put enforcement teeth in the Brown Act, the state's first and most meaningful open meeting law.

It would add amendments to the Ralph M. Brown Act which would require that local governmental agencies post specific agendas for meetings 72 hours in advance of regular meetings and 24 hours in advance of special meetings, and would authorize private citizens and organizations to seek and obtain judicial invalidation of actions taken in violation of the act.

At the moment, any governmental agency can add last-minute agenda items, thus avoiding public scrutiny, and can take legally-binding action upon them without prior notice.

This quite clearly subverts the spirit and intent of the Brown Act as well as the Bagley-Keece Open Meeting Act.

A favorite tactic of those who would subvert the state's open meeting laws is to wait until the audience attending late night meetings has departed, and then bring up items which they seek to hide from the public.

A classic example of this occurred two weeks ago at the Fallbrook Elementary School Board meeting. School boards, unlike city councils or other public agencies, are specifically forbidden from bring up off-agenda items.

But Fallbrook Elementary School trustees evaded that law by "not taking a vote" while approving appointments to a school site selection committee. Trustees, instead of voting verbally, nodded their heads — at the suggestion of school board president Mitch Rollin — as a means of endorsing the item without taking a formal vote.

The board conducted this outrageous violation of the state's open meeting laws as a means of circumventing it. There is nothing to force their action to be repealed — but AB 2874 would do so.

A more outrageous example of voting on off-agenda items occurred at a recent Los Angeles city council

meeting, where council members voted themselves a pay raise on an off-agenda item.

Because this particular action did not violate the Brown Act, which does not have an off-agenda item clause, the action is legal, even though every Los Angeles citizen was deprived of the right to comment on the pay raise.

To conduct the public's business in such a manner deprives the public of input to those issues acted upon under such circumstances.

San Diego County city attorneys recently met and voted to oppose AB 2874. We wonder why these "men of the law" would oppose such a law to protect the public, unless they enjoy undermining the spirit and intent of the state's open meeting laws by finding loopholes in them.

If city attorneys oppose such a law, it should be impetus for every conscientious citizen to support it, for city attorneys frequently become devious instruments of city councils, instead of defenders of the public's rights.

There are so many abuses of the Brown Act and the state's open meeting laws that it is high time the Brown Act had teeth, and the public started biting back at nefarious board actions.

AB 2874 is sponsored by Common Cause, and supported by the League of Women Voters, California's attorney general, the California District Attorneys Association, the Los Angeles District Attorney, and many other groups.

The League of California Cities, the body composed of representatives from the city agencies which are abusing the state's open meeting laws, is opposed to the bill.

We suggest you contact your local state assembly and senate representatives and tell them how you feel about AB 2874.

You can contact State Sen. Bill Craven's office at 438-3814, Assemblyman Robert Frazee's office at 434-1749, and Assemblywoman Sunny Mojonnier's office at 457-5775.

It's time the state's public bodies were made fully accountable to the public, and bring an end to the tinuling violations to the state's open meeting laws.

Blame Item No. 53

When the Assembly Local Government Committee opens hearings next Tuesday in Sacramento on Assembly Bill 2674, city and county governing bodies around the state can blame the Los Angeles City Council and Item No. 53 for it.

AB 2674 would give the Brown Act, California's open-meetings law, a few teeth to back up its abundant spirit. Until now, the Brown Act has been little more than a few nice passages of prose in the state law about how the public ought to be allowed in on its own business. You won't find much in it that would allow the public to chew up — or even nibble on — an offending elected official.

The amendment to the law would allow actions of a government agency taken in a meeting that violated the Brown Act to be declared null and void. At the very least, it would mean the agency would have to do it all over again, out in the sunshine where interested observers might be able to make their feelings known on the issue.

What brings us to this particular juncture is the L.A. City Council and Item 53 and the fact that they rubbed Dorothy Green's nose in it a little too hard.

The L.A. council, last June 8, unanimously passed Item 53 on its agenda. That's all the agenda said, just Item 53. Just before passing Item 53, the council voted to suspend its normal rule of having its clerk read the subject matter aloud before the vote. This one was just slam-dunked on a very fast break.

Turns out that Item 53 was a 10 percent pay raise for council members, the mayor, the city attorney and the city controller. Dorothy Green was outraged. She took the city to court.

Technically, there was no violation of the Brown Act, the court found. The action occurred in an open, legal meeting. But Superior Court Judge Raymond Cardenas found that the council had violated the spirit of the law. He also voided the pay hikes because they violated the city's charter.

This little episode got the attention of Lloyd Connelly, a Democratic assemblyman from Sacramento. He wrote AB 2674 to plug the holes in the Brown Act through which the L.A. council slipped.

The amendment would require specific meeting agendas to be posted 72 hours in advance of a local body's regular meeting. That means the public is guaranteed advance warning that their elected officials will undertake such efforts as giving themselves pay raises. The Palomar-Pomerado Hospital District's directors pulled one of those a couple of years ago on an item added quietly at the last minute to their agenda. The public outcry was immense, but the horse was already out of the barn.

Connelly's bill would bring the horse back. It would allow a member of the public to ask the courts to nullify any action taken at a meeting that violated the Brown Act. Prosecution under the Brown Act is now all but impossible; it must be proven that the offending official intended to violate the law. And few who favor open government are interested in seeing elected officials behind bars; most just want to see them while they carry out the public's business. Connelly's bill would give California citizens the opportunity to enforce openness without the messy matter of criminal prosecution.

Gene Erbin, legal counsel to the Assembly subcommittee on the administration of justice, observes that it will be "difficult" for any politician to come out against such a motherhood-apple-pie issue as open meetings during an election year. You might want to reinforce that prediction with a telephone call on Monday to Bill Bradley or Bill Frazer, North County's own assemblymen, both of whom sit on the Local Government Committee.

Erbin also says he expects "concern if not outright opposition" to the bill from the League of California Cities and the County Supervisors Association. Connelly, however, has not left them much room for complaint. The bill features a couple of safety valves. For an action to be nullified, the violation of the Brown Act must be more than a minor technicality. And an agency would have that second chance to take the action in a legitimate public meeting.

But if the cities and counties really want to gripe about AB 2674, they ought to be complaining to the L.A. council. Pull a few minor transgressions against the Brown Act and you get a few outraged editors up in arms. Pull an Item 53 and you get the whole state after you.

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March 7, 1986

FEB 18 1986

The Times

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To give our readers the widest scope of information, The Times prints the informed and varying opinions of many leading columnists. Their opinions are not necessarily those of The Times.

B12— San Mateo

Friday, Feb. 14, 1986

Two additions to Brown Act merit approval

The public has a right to know how public business is being conducted. That is the purpose in this state of the Ralph M. Brown Act — to prevent government from being conducted in secret.

The Legislature will soon consider two crucial improvements (AB2674) to the Brown Act, sponsored by Assemblymen Lloyd Connelly of Sacramento and Ross Johnson of Fullerton. They point out that, as the act now stands, it contains no meaningful advance notice and agenda requirements, and no effective remedy for actions taken by local public bodies in violation of the act.

In other words, there is no mechanism by which decisions adopted in violation of the Brown Act can be declared "null and void."

These two critical shortcomings would be corrected by additions to the Brown Act contained in AB2674. We think the public interest will be served by prompt approval of this legislation.

Local legislative bodies subject to the open meeting requirements of the Brown Act include city councils, county boards of supervisors, school districts and planning commissions. The courts have held that the act applies to informal as well as formal meetings of such bodies.

One might reasonably assume that action taken by a governmental body in secret, when the law requires such decisions to be made in an open meeting, would render the action null and void. The courts have consistently stated, however, that the action is still valid.

To remove the inadequacies in the present law, AB2674 would add a new section to the Brown Act requiring local bodies to post a specific agenda of all items of business to be transacted or discussed at regular and special meetings no later than 72 hours prior to regular meetings and 24 hours prior to special meetings.

No action could be taken on items of business that did not appear on the posted agenda, and no item could be added to the agenda after it had been posted.

A second addition would authorize private citizens and organizations to challenge in court the actions of local bodies taken in violation of the Brown Act and have such actions declared "null and void."

Assemblyman Connelly points out that AB2674 is modeled on AB214 last year, which he also authored. The latter bill added a "null and void" provision to the Bagley-Keene Open Meeting Act which pertains to meetings of state agencies. We agree with Connelly, now that AB214 is law, it is time for the Legislature and the governor to strengthen the Brown Act.

(800) 666-1917

LEGISLATIVE INTENT SERVICE



Viewpoints

← THE UNION, Grass Valley-Nevada City, Ca.—Friday, March 7, 1986

AP - 58b

The Union's Opinion

Unsigned columns are the opinions of The Union. Signed columns and cartoons are the opinions of the authors.

Putting teeth into the Ralph M. Brown Act

From the California Legislature to the smallest of special districts, the Ralph M. Brown Act — the state's anti-secrecy law — applies to all.

It mandates that every official policy-making body must, with some exceptions, conduct its business openly and with adequate notice to the public of its meetings and agenda.

The Act, part of the state Government Code, reads:

"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."

In adopting this most important Act, the people simply said we are ready, willing and able — through our representatives — to play a role in our government.

This is one of the most important pieces of state legislation ever adopted. It can be compared to the First Amendment of the United States Constitution which reads:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble

and to petition the government for a redress of grievances."

Regardless of the value of the Brown Act, there are loopholes which two legislators are attempting to plug.

Through AB 2674, Assemblymen Lloyd Connelly (D-Sacramento) and Ross Johnson (R-Fullerton), are seeking to amend the Act to allow a vote only on items posted on an agenda 72 hours in advance and prohibiting additions to the agenda after that time period.

In addition, AB 2674 would allow members of the public to file a court injunction to declare "null and void" any action taken on items not posted in advance.

Current law does not require local agencies to adopt regulations to assure that members of the public have an opportunity to speak at the various meetings. AB 2674 would ensure that right.

Although the Nevada County Board of Supervisors has historically allowed the public to address agenda items regardless of whether it is conducting a "public hearing," not all area agencies follow that example. Of course, if it is not on the agenda, how would one know it is to be discussed?

Terry Francke, counsel for the California Newspaper Publishers Association (CSAC) said the League of Cities and a number of other governmental groups have been

lobbying against the passage of AB 2674 claiming, in part, that agenda deadlines would unfairly restrict them from functioning properly.

That notion doesn't carry a lot of weight with us however, since school superintendents of this state have been living with a similar requirement (under the Education Code) for at least a decade.

Mark Wasser, general counsel for the County Supervisors Association of California (CNPA), said his group was originally troubled by the 72-hour provision in light of the number of small, north state county boards which meet only once or twice a month. However, through discussions with the sponsors of the bill, action on items requiring immediate attention would be permitted so long as the matter arose subsequent to the adopted agenda.

Wasser said CSAC is continuing to meet with the sponsors to hash out another major concern: What would be the effect on members of the public of the "null and void" provision.

Wasser said he believes "there is an extraordinary importance to having finality in decisions which affect private individuals." If an individual incurs commitments following an agency's action which is subsequently invalidated, "we have really hung that guy out to dry."

He said exemptions to protect innocent

third parties have been discussed. "Private individuals need to rely with certainty on what government does. They (exemptions) would not take away the deterrent value of the bill because that does not affect the supervisors, only the public."

Wasser added, "We support the Brown Act and we think we will be able to support the bill as soon as some of our questions are worked out...interpretation of the specific language, etc. Perhaps by next week we will be in a position to support it."

Francke believes that although a lot of noise is being made by the opponents of the bill about agenda deadlines "The big threat is the potential threat of invalidation of their actions. It would raise the stakes, so to speak, for being ignorant or contemptuous of the rules."

We must agree with the CNPA attorney as to the real "bottom line" here. While the Brown Act is an absolute necessity to the people of California, it definitely lacks teeth without these new amendments.

The bill will go before the Local Government Committee in Sacramento Tuesday. We urge our local and state lawmakers to endorse AB 2674 without reservation and we encourage all Nevada County residents to contact their representatives, both local and at state level, to let them know they want control over their government.

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The Honorable Dominic Cortese, Chairman 3/11/86
 Assembly Local Government Committee
 State Capitol Building
 Sacramento, CA 95814

Dear Assemblyman Cortese:

The Planning and Conservation League urges you to support AB 2674 (Connelly) regarding the Open Meetings Act.

We strongly believe that open and accessible public meetings are an integral part of our democratic system. The public must also be able to know what items will be discussed before public hearings take place if the public is going to be able to provide meaningful input into the decisionmaking process.

AB 2674 provides greater assurances that public agencies will provide the public with the opportunity to learn of decisions that will be made in advance of those decisions. It also provides important sanctions against public agencies that violate these basic principles that are essential for an open and democratic decisionmaking process.

For these reasons, we urge you to support AB 2674.

Sincerely,

Corey Brown
 General Counsel

LEGISLATIVE INTENT SERVICE (800) 666-1917



"The Planning and Conservation League has been instrumental in the passage of every major piece of environmental legislation in California." — resolution of the California Legislature.

The Planning and Conservation League was founded in 1965 by a group of citizens concerned about the loss of environmental quality in California. PCL has played a major role in the passage of such important legislation as the California Environmental Quality Act, the State Wild and Scenic Rivers Act, the Coastal Protection Act, and many other laws devoted to protecting and enhancing the environment of California. PCL is dedicated to a governmental process that will result in carefully planned decisions about the use, protection and development of California's resource base. PCL believes that resources should be managed to produce a sustained economy, and to enhance the urban and natural environment that makes California such a wonderful place to live and work.

The following organizations are members of the Planning and Conservation League. Like the organizational members of the Board of Directors listed on the other side of this letterhead, they have joined to support our goals and ideals, but do not necessarily concur in every PCL legislative action. They support PCL to preserve the environment of California, and to let the Legislature and the Administrative branch of government know that they are interested in what State government does to enhance the quality of life in California.

All-Outdoor Adventure Trips	Ecology Action Educational Institute (Modesto)	Orinda Garden Club
Alpine West, Inc	Ecology Center of Berkeley	Outdoor Adventures
American River Recreation, Inc	Ecology Center of Southern California	Outdoor Art Club
Amigos De Bolsa Chica	Ecology Switchboard (San Francisco)	Pacific Palisades Residents Association, Inc.
ARC Recycling Center (Sacramento)	Educational Futures Project	Pelican Alliance for Safe Energy
Bergida Enterprises	El Dorado Audubon Society	Peninsula Open Space Trust
Better Transportation Coalition (Santa Ana)	Environmental Action Committee of West Marin	People for Open Space
Berkeley Garden Club	Environmental Protection Information Center	Planet Drum Foundation
Beverly-Wilshire Homes Association	Environmental Forum (Larkspur)	Point Reyes Bird Observatory
Billboards Limited	Friends of the Sea Otter	Redwood Chapter North Group, Sierra Club
Boulder Creek Landscape Co.	Friends of Sonoma Creek	Redwood Chapter, Sierra Club
BSA Explorer Post #87 (Reseda)	The Fund for Animals Inc.	Richmond Environmental Action
California Agrarian Action Project	Garden Study Club of the Peninsula	Rocky Dock Works
California Alpine Club	Golden Gate Audubon Society	Sacramento Audubon Society
California Native Plant Society Channel Islands Chapter	Hayward Area Planning Association	S.A.F.E. Alternatives for our Forest Environment
California Native Plant Society Lone Pine Chapter	Hillside Gardeners of Montclair	Save San Francisco Bay Association
California Native Plant Society Monterey Chapter	Independence Fish Co.	Santa Clara Valley Audubon Society
California Native Plant Society San Diego Chapter	Institute for the Human Environment	Santa Susana Mountain Park Association
California Native Plant Society San Luis Obispo Chapter	Lake Tahoe Audubon Society	Sempervirens Fund
California River Trips	Land Restoration Associates	Sequoia Audubon Society
California Save Our Streams Council	Land Trust of Santa Cruz County	SESPE Group, Los Padres Chapter Sierra Club
California Wilderness Coalition	Let's Improve Santa Ana	Small Wilderness Area Preservation
Citizens Coordinate for Century 3 (San Diego)	Los Angeles Audubon Society	Smith River Alliance
Claremont Democratic Club	Madrone Audubon Society	Solana Beach Women's Civic Club
Citizens Planning Association (Santa Barbara)	Marin Audubon Society	Sonoma County Tomorrow
Coalition for Scenic Beauty	Marin Garden Club	Southern California Botanists Dept. of Bio. Sci.
Committee for Green Foothills	Monterey Peninsula Audubon Society	Sunland-Tujunga Association of Residents
Concerned Coastal Planners	Mt. Diablo Audubon Society	Tamalpais Conservation Club
Conservation Call	National Coalition for Scenic Beauty	Temescal Canyon Association
Defenders of Wildlife	Natural Resources Defense Council	Tri-City Ecology Center (Fremont)
Delta Drinking Water Defense Fund	Napa-Solano Audubon Society	Trinity River Rafting
Desmount Club	The Nature Conservancy	Willits Garden Club
Diablo Hiking Club	Northern California Recycling Association	Zephyr River Expeditions
Diablo Valley Fly Fishermen	No Oil Inc	
Dr. Seuss Foundation	Northcoast Flyfishers	
Eastern Sierra Audubon Society	Oceanic Society, San Francisco Chapter	
Echo the Wilderness Company	Ohlone Audubon Society	
	Ojai Valley Garden Club	



County Supervisors Association of California

March 10, 1986

The Honorable Lloyd Connelly
Member of the Assembly
Room 2179, State Capitol
Sacramento, California 95814

RE: Assembly Bill 2674 (Connelly)

Dear Assemblyman Connelly:

The County Supervisors Association of California (CSAC) supports the state's open meeting laws and supports your interest in ensuring adequate public notice of items considered by local government. This letter describes the concerns we have with AB 2674. Although we do not oppose the bill, we do believe some amendments are necessary.

As introduced, we had several concerns regarding the agenda requirements established by the bill. Recent amendments, however, have removed most of our concerns in this regard. We remain concerned regarding the "serious harm" finding that must be made in order to add an item to the agenda.

There are numerous non-controversial, non-substantive matters which frequently arise at the last minute. Some examples are: "ceremonial" actions, such as adjourning the meeting in the memory of deceased individuals, directing flags to be flown at half-staff, and special presentations; actions directing county departments to prepare reports and recommendations and to report back to the board of supervisors; receiving and filing staff reports; adopting traffic regulation orders; and authorizing applications for grant funds. I am sure you can appreciate the frustration and inefficiency that would result if such items had to be postponed a full week just to be considered. Yet, under the bill as worded, they could not be added to the agenda because the failure to consider them would not result in "serious harm." We believe the "serious harm" language ought to be deleted.



CSAC EXECUTIVE COMMITTEE: President, LESLIE K. BROWN, Kings County • First Vice President, CAL McELWAIN, San Bernardino County • Second Vice President, BARBARA SHIPNUCK, Monterey County • Immediate Past President, STEPHEN C. SWENDIMAN, Shasta County • MICHAEL D. ANTONOVICH, Los Angeles County • KAY CENICEROS, Riverside County • FRED F. COOPER, Alameda County • JERRY DIEFENDERFER, San Luis Obispo County • ROBERT E. DORR, El Dorado County • ROLLANO STARN, Stanislaus County • HILDA WHEELER, Butte County • LEON WILLIAMS, San Diego County • JOE WILLIAMS, Glenn County • SUSANNE WILSON, Santa Clara County • ADVISORS: County Administrative Officer, Robert E. Hendrix, Humboldt County • County Counsel, James Lindholm, Jr., San Luis Obispo County • Executive Director, LARRY E. NAAKE

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AP - 61b



The Hon. Lloyd Connelly
March 10, 1986
Page 2

We are also uncomfortable with the words "suddenly and unexpectedly." Depending upon how literally they are interpreted, they could create an unreasonably restrictive standard. We support your intent of limiting the addition of items to those that arose after the posting of the agenda. Since, by definition, that standard would exclude any items that were known about but left off the agenda, we think the "suddenly and unexpectedly" language is unnecessary.

We do not object to the super-majority requirement for adding an item to the agenda, but we believe it should be two-thirds of the members present and not two-thirds of the whole board. Otherwise, absences could unnecessarily prevent action.

Our principal concerns with the bill have to do with the "null and void" remedy set forth in Section 4. The public should be able to rely on the finality of actions taken by its governmental representatives. The nullification of government action will erode that expectation substantially. It will create significant uncertainty where presently there is none. Although the State's open meeting law does contain a "null and void" provision, there is a world of difference between state agencies and counties. State agencies do not legislate, they do not represent constituents, their actions are not subject to referendum.

We believe the bill should require that any person seeking to challenge an action of the legislative body first serve a written demand on the legislative body, specifying the challenged action and demanding that it be cured. We believe such a written demand should be a condition precedent to filing a lawsuit. We would not object to extending the statute of limitations to provide a reasonable period of time for the filing and processing of such a written demand. The bill should clearly provide that a cure or correction is not an admission of a Brown Act violation and is not admissible to prove one. If the agency cured the challenged action within the time prescribed, the complainant would not be entitled to any other relief.

Recognizing the importance of preserving finality as to certain actions, the Legislature specified certain exceptions which were incorporated into the state's open meeting law and which have been incorporated into your bill. We believe the bill should include a fifth exception. Counties administer the planning and zoning laws whereas the State does not. The finality of these land-use decisions should be protected. If a person obtains a rezoning and undertakes financial commitments toward development in reliance on that rezoning, that person should not be made to suffer economic hardships by the invalidation of the rezoning at



The Hon. Lloyd Connolly
March 10, 1986
Page 3

some future date. The victim in such a scenario will be the individual. It will not be the county. It will not be the board of supervisors. This bill should contain language to prevent that.

There is another compelling reason for such an exception. Most land-use decisions are already subject to independent statutory notice requirements. For example, Government Code Section 65854 requires that any proposed rezoning be advertised by publication in a newspaper, at least ten days before the hearing. This statutory notice requirement provides for more advanced notice than this bill would. We see no reason why such land-use matters should be included within the scope of your bill. We are in the process of listing the the land-use actions subject to such independent notice provisions, and we will provide you with the list as soon as it has been completed.

I want to thank you, your staff and the sponsor of this bill for your assistance and thoughtful consideration of the significant issues which this bill touches. We appreciate the many helpful discussions.

If you have any questions regarding our position or would like any additional information, please let me know.

Very truly yours,

COUNTY SUPERVISORS ASSOCIATION
OF CALIFORNIA



Mark A. Wasser
General Counsel

MAW:cb

cc: Hon. Dominic Cortese, Chair, Assembly Local Government
Members, Assembly Local Government
Consultant, Assembly Local Government
County Caucus



Substantive

AMENDMENTS TO ASSEMBLY BILL NO. 2674
AS AMENDED IN ASSEMBLY MARCH 10, 1986

Amendment 1

On page 3, lines 20 and 21, strike out "failure to take action will result in serious harm to the public and that"

Amendment 2

On page 6, strike out lines 11 and 12, and in line 13, strike out "taken."

Amendment 3

On page 6, line 16, after "(b)" insert:

Prior to any action being commenced pursuant to subdivision (a), the 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, or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation. The written demand shall be made within 30 days from the date the action was taken. Within 15 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. Within 15 days after receipt of the written information of the legislative body pursuant to the preceding sentence or 60 days from the date the challenged action was taken, whichever is later, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c)

Amendment 4

On page 6, line 29, strike out "(c)" and insert:
(d)

Amendment 5

On page 6, line 32, strike out "either"

- 0 -

Handwritten note:
What
amendment
is there

LEGISLATIVE INTENT SERVICE (800) 666-1017

MAR 13 1986

AMENDMENTS TO ASSEMBLY BILL NO. 2674
AS AMENDED IN ASSEMBLY MARCH 10, 1986

Amendment 1

On page 3, line 5, strike out the first "of" and
insert:

clearly describing

Amendment 2

On page 3, lines 20 and 21, strike out "a
failure to take action will result in serious harm to the
public and that"

Amendment 3

On page 3, line 22, strike out "suddenly and
unexpectedly and"

Amendment 4

On page 5, line 18, strike out "shall exhaust"

Amendment 5

On page 5, line 20, after "meetings" insert:
shall be exhausted

Amendment 6

On page 6, strike out lines 11 and 12, and in
line 13, strike out "taken."

Amendment 7

On page 6, line 16, after "(t)" insert:

Prior to any action being commenced pursuant to
subdivision (a), the 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, or 54956. The demand shall be in writing and
clearly describe the challenged action of the legislative
body and nature of the alleged violation. The written
demand shall be made within 30 days from the date the
action was taken. Within 15 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. Within 15 days after receipt of the



written information of the legislative body pursuant to the preceding sentence or 60 days from the date the challenged action was taken, whichever is later, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c)

Amendment 8

On page 6, line 29, strike out "(c)" and insert:

(d)

Amendment 9

On page 6, line 32, strike out "either"

Amendment 10

On page 6, between lines 36 and 37, insert:

(e) 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 as evidence of a violation of this chapter.

- 0 -



TOWN OF PARADISE

5555 SKYWAY
PARADISE, CALIFORNIA 95666
TELEPHONE: [REDACTED]

(916) 872-6295

March 19, 1986

Assemblyman Dominic L. Cortese
State Capitol
Room 6031
Sacramento, CA 95814

Dear Assemblyman Cortese:

The Town Council of the Town of Paradise has reviewed the amendments of AB 2674 (Connelly).

The Council concurs that the amendments will make this proposed legislation more workable for local governments. The Council does not anticipate any problems in their operation with the amendments as described.

Thank you very much for your consideration.

Sincerely,

MICHAEL E. HAYS
Town Manager

MEH:oc

cc: Town Council

LEGISLATIVE INTENT SERVICE (800) 666-1917





City of San Luis Obispo

OFFICE OF THE MAYOR • 990 PALM STREET
Post Office Box 8100 • San Luis Obispo, CA 93403-8100 • 805/549-7111

March 19, 1986

Assemblyman Dominic Cortese, Chairman
Local Government Assembly Committee
State Capitol, Room 6031
Sacramento, CA 95814

Dear Assemblyman Cortese:

It is our understanding that the Local Government Assembly Committee will consider AB 2674, authored by Assemblyman Connelly, in the next few weeks.

The City of San Luis Obispo strongly opposes AB 2674 and encourages yourself and other members of the committee not to pass this bill.

The existing law, known as the Ralph M. Brown Act, requires that actions of legislative bodies of local agencies be taken openly and that their deliberation be conducted openly. We firmly believe in this existing law.

However, if the bill passes through your committee and eventually the assembly, it would present a disincentive for people to act. It would also appear to encourage litigation which sole purpose would be to stop municipal actions.

Lastly, elected officials in the California State Legislature do not seem to feel that "what's good for the goose, is good for the gander." These laws do not apply to the legislature and that is not fair or responsible.

The City of San Luis Obispo would recommend highly your support and other committee members in assisting us to defeat AB 2674 in the Local Governments Assembly Committee.

Thank you for your cooperation and time on this matter.

Sincerely,

Ron Dunin
Mayor

RD:ra

cc: Assemblyman Eric Seastrand
State Senator Ken Maddy
Roger Picquet
Paul Lanspery



CITY OF MILLBRAE
621 MAGNOLIA
MILLBRAE CA 94030 24PM

Western
Union Mailgram



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ASSEMBLYMAN DOMINIC CORTESE
SACRAMENTO CA 95814

THE LEGISLATIVE COMMITTEE OF THE SAN MATEO COUNTY COUNCIL OF MAYORS REPRESENTING THE 20 CITIES OF S.M. COUNTY VIGOROUSLY OPPOSES THE PROPOSED REVISIONS TO THE BROWN ACT INCLUDED IN AB2674 AS UNNECESSARY AND DELAYING TO EXPEDITIOUS HANDLING OF PUBLIC BUSINESS.

THE 2/3RD VOTE REQUIRED TO ADD AN ITEM TO THE AGENDA IS CUMBERSOME AND PLACES UNDUE IMPORTANCE ON THE MAJORITY OF SUCH ITEMS.

THE PROVISIONS REQUIRING TIME FOR THE PUBLIC TO SPEAK IS AN UNNECESSARY DUPLICATION OF PRACTICES ALREADY IN PLACE AMONG OUR CITIES.

COUNCILWOMAN MARY GRIFFIN, CHAIRMAN
LEGISLATIVE COMMITTEE
SAN MATEO COUNTY COUNCIL OF MAYORS
621 MAGNOLIA
MILLBRAE CA 94030

19:30 EST

MGMCOMP

5241 (R 7/82)

LEGISLATIVE INTENT SERVICE (800) 666-4017



California Grocers Association

March 24, 1986

1400 K Street
Suite 208
Sacramento
CA 95814

TO: Assemblyman Lloyd Connelly
Members, Assembly Local
Government Committee

P.O. Box 160907
Sacramento
CA 95816

FROM: Don C. Beaver
Doris G. Costa

916 448-3545

RE: AB 2674 (Connelly)
Local Agency Meetings
As Introduced

Don C. Beaver
President
Doris G. Costa
Vice President
Board of Directors
Officers

POSITION: Support

Chairman of the Board
Manuel Campos
Campos Food Fair, Antelope
First Vice Chairman
Robert Hearn
Vons Grocery Co., Los Angeles
Second Vice Chairman
Charles Collins
SA's Sacramento
Treasurer
Roger K. Hughes
Hughes Markets, Los Angeles
Past Chairman
Leonard Leum
Pioneer Foods, Inc., Los Angeles

The California Grocers Association supports AB 2674 (Connelly) scheduled for hearing in the Assembly Local Government Committee on Tuesday, April 1, 1986.

Board Members
Steve Angelo
Angelo's Markets, Modesto
Bill Avoub
Cala Foods, San Francisco
James W. Brown
Ralphs Grocery Company, Los Angeles
W. Ken Calvert
Mancini & Garasbeck, Inc., Pleasanton
Paul Gerrard
Gerrard's Cypress Center, 90, Lands
Don Kaplan
Government Food Mart, San Ramon
Jack Kent
Lucky Market, National City
Paul Kothmer
ABC Market Corporation, Los Angeles
Ron Koehn
It's Food Service, Inc., El Sobrante
David C. Latsun
Foodmart Grocery Company, Oakland
Steve Nottingham
Shop & Save Markets, Chico
Jack Panato
Jack's Warehouse Market, Montevideo
Michael Proenzano
Southland Market Center
Charles Sprinkle
Flaming Food, Inc., Pleasanton
Peter Stathos
Van's Markets, Sacramento
Lynda Trosbit
North Hill Grocery Store, Colton
Curtis Swartz
General Grocers

This bill would require all local agencies to post agendas for items to be discussed at their meetings and would prohibit action from being taken on an item not appearing on that agenda.

CGA represents California's grocers at the local as well as the state level. We track and monitor items of interest to California grocers by reviewing the meeting agendas of city councils and county boards of supervisors. When an item of interest appears, we alert grocers in the locale and, if necessary, assist them in their endeavors to support or oppose the ordinance.

Advance notice of items is crucial in order to secure input from all individuals affected.

We urge you to vote YES at the hearing of AB 2674.

LM:kb

Serving the food industry of California since 1898

LEGISLATIVE INTENT SERVICE (800) 666-1917



March 22, 1986

The Honorable Dominic Cortese
Chair, Assembly Local Government Committee
State Capitol
Sacramento, Ca. 95814

Regarding AB 2674 (Connelly)

Dear Assemblyman Cortese;

At our March 19th meeting, the Steering Committee of the Palo Alto Civic League voted unanimously to oppose AB 2674, and to urge that it be

defeated as presently drafted. Rather than open up the public process, we believe it will stifle much useful public participation in local government. The goals which AB 2674 tries to achieve can be obtained more effectively by requiring that agenda items be described in published agenda, that added item be fully identified, and that background information on all proposed ordinances be available for agenda items. Requiring 72 hours prenotice of items would be too restrictive. Our experience in Palo Alto demonstrates that present laws are adequate if the public is alert and informed. In fact, the proposal to restrict adding items to the agenda would hinder public participation in communities such as Palo Alto.

In the past 9 months there have been 3 instances where community organizations and neighborhood groups addressed the City Council at the beginning of a Council meeting and asked that a pressing issue be considered. Two of them related to land use and development, the 3rd to an urgent request for City support of a grant application for a flood warning system. In each case the Council agendaed the issue that evening in direct response to the public. Actions were taken, Staff was directed to find solutions to the problems, and responses were obtained. The 72 hour pre-notice provision of AB 2674 would prevent this type of responsiveness to real problems which occur after the cut-off date for publishing the meeting agenda.



Giving the right to sue for real or imagined violations of the process would allow anyone who disagreed with the Council to delay adoption of needed actions, or to throw the entire issue into court, even if 99% of the public agreed with Council action, and if it ultimately was upheld by the courts.

In sum, AB 2674 address the wrong problem in the wrong way. Please defeat it.

Yours sincerely

Bob Moss

Bob Moss

President

Palo Alto Civic League

cc: Honorable Assemblyman Byron Sher
Honorable Assemblyman Bill Lancaster, Vice Chair, Assembly Local
Government Committee
Honorable Assemblyman Lloyd G. Connelly
Palo Alto City Council
Honorable Senator Becky Morgan

LEGISLATIVE INTENT SERVICE (800) 666-1917





412 WEST 4TH STREET, SUITE 203, SANTA ANA, CALIFORNIA 92701 (714) 972-0077

MEMBER CITIES

March 26, 1986

- ANAHEIM
- BREA
- BUENA PARK
- COSTA MESA
- CYPRESS
- FOUNTAIN VALLEY
- FULLERTON
- GARDEN GROVE
- HUNTINGTON BEACH
- IRVINE
- LAGUNA BEACH
- LA HABRA
- LA PALMA
- LOS ALAMITOS
- NEWPORT BEACH
- ORANGE
- PLACENTIA
- SAN CLEMENTE
- SAN JUAN CAPISTRANO
- SANTA ANA
- SEAL BEACH
- STANTON
- TUSTIN
- VILLA PARK
- WESTMINSTER
- YORBA LINDA

Assemblyman Dominic Cortese
 Chair, Assembly Local Government Committee
 State Capitol
 Sacramento, CA 95814

Dear Assemblyman Cortese:

At its March General Meeting, the Orange County Division of the League of California Cities OPPOSED AB 2674 (Connelly). While recent amendments have made the bill more workable, we believe it remains unnecessary legislation at best. Our opposition also arises from the philosophical attitude that AB 2674 should apply equally to all legislative bodies within the state.

We believe local government, in general, has not abused the intent of the Brown Act. In fact, most non-agenda actions taken have had favorable effects for citizens who attend council meetings with urgent requests. The result of AB 2674, however, may be the opposite of part of its intent; it could make councils appear less responsive to the public.

Please keep our opposition in mind when reviewing AB 2674; we ask that you also oppose the measure.

Sincerely,

Evelyn R. Hart
 President
 Council Member, Newport Beach

LEGISLATIVE INTENT SERVICE (800) 666-1917

City of Santa Monica

SIXTEEN EIGHTY FIVE MAIN STREET
SANTA MONICA, CALIFORNIA 90401



Christine E. Reed
Mayor

March 14, 1986

Honorable Dominic Cortese, Chairman
Assembly Local Government Committee
State Capitol
Sacramento, California 95814

Dear Mr. Cortese:

I understand that consideration is being given to amending AB 2674. I would like to urge that you remove from this legislation the provision which allows members of the public to place items directly on a city council agenda. This provision would cause many administrative and procedural difficulties for us in Santa Monica.

We have a provision in our rules which allows any citizen five minutes to be heard on a specific item. We require that persons apply in writing to the City Clerk and indicate the matter on which they will address us. The Clerk generally schedules these requests for the next available meeting. Interested citizens usually do not have to wait more than three weeks (depending on agenda schedules - we meet on the 2nd and 4th Tuesday evenings).

We have another procedure which we use on occasion to meet urgent citizen requests. Our rules allow council members to agendaize items by title up until the time that the meeting is convened. Our rules require a two thirds affirmative vote of the council to add all the items that come in after our formal deadline (noon of the Friday preceding the meeting). AB 2674 contains a provision which would prevent this practice.

I have served on this City Council for eleven years and can state with pride that our citizens have been treated fairly under our rules of procedure. We have had many occasions where proponents and opponents of ballot measures have sorely tried our patience by utilizing our public item portion of the agenda to make repetitive and/or emotional presentations (generally for the benefit of our live radio audience) which have sometimes caused our meetings to go well past midnight. No matter how abused we have felt by some of these publicity efforts we have never considered removing this "public item" section from our agenda.

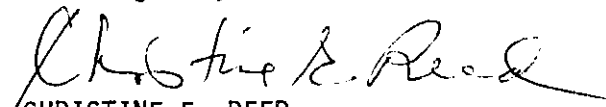
Honorable Dominic Cortese
March 14, 1986
Page 2

I know many council members from all over our state and most councils provide time for the public to be heard. Councils that do not do so are generally those which operate with strong committee systems and the public is heard in the committees.

Please consider if you would change the rules of the Assembly to allow citizens to directly agendize items. There is no need to direct that this occur in the cities of our state. The public is not cut off from their local governments - we are, in fact, the only government to which the public does have reasonable access.

I am confident that the local elected officials of this state are capable of devising fair procedures for the public to be heard. Please leave this to us.

Best regards,


CHRISTINE E. REED
MAYOR

cc: Council

CER:mj



ASSEMBLY THIRD READING

AB 2674 (Connelly) - As Amended: March 18, 1986

ASSEMBLY ACTIONS:

COMMITTEE _____ L. GOV. _____ VOTE 8-0 COMMITTEE _____ VOTE _____

Ayes: _____ Ayes: _____

Nays: _____ Nays: _____

DIGEST

Current law under the Ralph M. Brown Act, requires all meetings of a legislative body of a local agency to be conducted open and public. The law generally requires prior written notification of all regular meetings of a local agency. The Brown Act requires 24-hour notice of meetings and allows for "emergency" meetings without prior notice in certain situations. In addition current law authorizes all local agencies to establish rules and regulations which allow for greater public access.

This bill would require posting of an agenda 72 hours prior to a regular meeting of a local agency. It would prohibit the legislative body from acting on any item not included in the agenda, unless a majority of the legislative body makes a finding that an "emergency" situation exists, or finds, by a 2/3 vote of the legislative body, that the need to take an action arose subsequent to the agenda being posted.

Assembly Bill 2674 would specify that a local agency can call a special meeting at any time if a majority of the legislative bodys' membership and the press is notified at least 24-hours prior to the meeting.

This bill would require local agencies subject to the Brown Act (such as county boards of supervisors, city councils, their standing committees, special district boards and local commissions, such as planning commissions) to establish regulations which provide the public the opportunity to address the legislative body at each regular meeting.

In addition, AB 2674 would allow any interested person to take action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body or local agency is in violation of the Brown Act and is therefore null and void. Such an action would have to be taken within 30 days from the date of the legislative action. If the legislative body cures or corrects its action, the case would be dismissed with prejudice.

- continued -

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Under AB 2674, exceptions to the null and void provisions would include actions which involved the sale or issuance of bonds, a contractual agreement, the collection of taxes, or cases where the action was determined to have been in "substantial" compliance with the Act.

FISCAL EFFECT

State mandated local program. Potential significant costs for required written, mailed and published notice requirements.

COMMENTS

1. Opponents to Assembly Bill 2674 contend that the measure unnecessarily ties local agency hands. It is argued that the "no action" provision would prohibit the council from acting promptly on matters which may be in response to public requests on noncontroversial items like street closings for parades, release of developer's bonds, repair requests, or resolutions honoring citizens.

In addition, opponents believe that the "null and void" provision would have a chilling effect for 30 days on all council actions.

2. Supporters of Assembly Bill 2674 argue that the Brown Act needs "teeth" because local agencies are currently able to skirt the spirit and letter of the law, and thus conduct public business without public participation. AB 2674 would, by requiring the posting of a specific agenda, give the public more advance notice and increased opportunities for participation in government decision making.

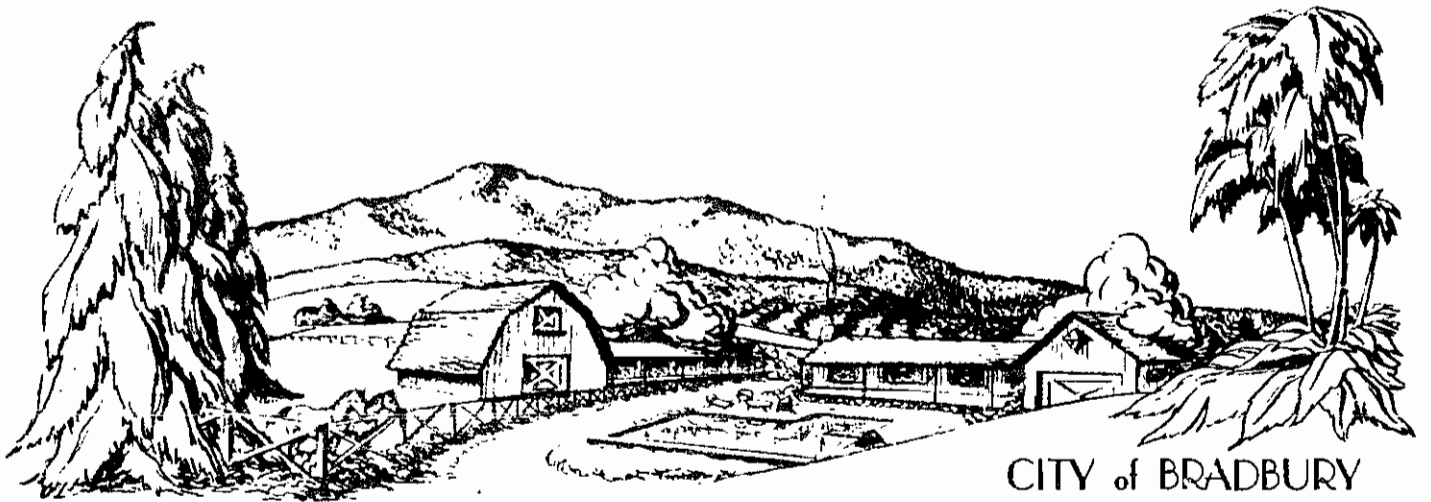
In addition, it has been argued that even when there has been a noted violation of the Brown Act, the action that was the subject of the violation stands. AB 2674 would render these action null and void, thus putting "teeth" into the Brown Act.

3. The Bagley-Keene Open Meeting Act requires state boards and commission to conduct open meetings and to provide specific agendas in advance. In addition, the Legislature operates under specific rules regulating its meeting notices and agendas. The Legislative rules are allowed to be waived without prior public notice when a member desires to move his or her legislation, by 2/3 approval of both houses, regardless of the urgency of the issue.

Mary McMillan
445-6034.
algov.

AB 2674
Page 2





CITY of BRADBURY

600 WINSTON AVENUE • (818) 358-3218 • BRADBURY, CALIFORNIA 91010

March 18, 1986

Chairman Dominic Cortese
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

Dear Chairman Cortese:

We are a small municipality in the northeastern San Gabriel Valley in Los Angeles County. We are a totally residential community, with a staff of three. Our City Council meets once a month. Amending the Brown Act as proposed would severely handicap our city.

At the present time we allow matters not posted on the agenda to be introduced under City Manager, City Attorney, City Council Reports; the Mayor is also generous to the few spectators who come to the meetings, allowing them in some instances to speak. Our agendas are mailed at least 5 days in advance of the meeting to all agencies of the City and agencies and individuals mentioned in said agenda. It is also available upon request at City Hall prior and during the meeting.

We would like to go on record as being opposed to amending the Brown Act at this time.

Sincerely,
Dolly Vollaire
Dolly Vollaire,
City Manager

DV/ph
cc: Members of Local Government Committee:
Lancaster, Gradley, Bronzan, Calderon,
Eaves, Frazee, Hauser, Robinson, Rogers
League of California Cities:
Sacramento Conni Barker
Los Angeles Kim Swaboda

LEGISLATIVE INTENT SERVICE (800) 666-1917



**California Society
of Newspaper Editors**

STEVE McNAMARA
Pacific Sun
President
N. CHRISTIAN ANDERSON
Orange County Register
Vice President
MICHAEL KIDDER
Peninsula Times Tribune
Secretary-Treasurer

March 17, 1986

Assemblyman Dominic L. Cortese
Chairperson
Assembly Local Government Committee
State Capitol - Room 6031
Sacramento, California 95814

Dear Assemblyman Cortese:

I am writing on behalf of the California Society of Newspaper Editors in support of AB 2674, which would amend the Ralph M. Brown Act. It is my understanding the bill is before your Assembly Local Government committee.

Our organization, which represents the senior editors of California's almost 400 daily and weekly newspapers, supports the measure because it takes a major step toward putting teeth into the Brown open meetings law. We think such bite is necessary because we have found public officials ignoring the law, even in the face of protests, knowing that their actions would not be penalized.

CSNE sponsors a statewide **Action Line** telephone network operated by the law firm of Crosby, Heafey, Roach & May in Oakland. Our counsel who directs this service reports that more than 90 percent of its calls are directed at Brown Act violations. (The remainder address other access questions such as public records or court hearings.)

More important, our attorneys report that frequently, despite detailed citations and explanations by them to local public officials regarding the purpose and specifics of the Brown Act, these officials simply display an unwillingness to abide by the law. In fact, the attorneys cite this disregard for the Brown Act as the single most important recurring problem facing reporters and editors who use the services of the **Action Line**.

This bill would address that problem to a great extent by the provision that would allow a judge to invalidate an action taken in an illegal meeting.

(Continued)

Assemblyman Dominic L. Cortese
Chairperson
Assembly Local Government Committee

- Page 2 -

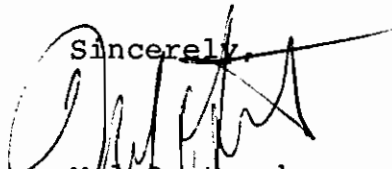
March 17, 1986

We know that other states, such as Florida, which have such provisions have found it effective in making local public officials adhere to the declared legislative intention that the public's business should be operated before the public.

In addition, we feel the other major provision of AB 2674, the requirement for posting an agenda, would not only allow members of the public to know what issues might interest them, but would serve as a check against the tendency to incorporate into secret sessions matters that should be discussed in open sessions.

We urge you to pass the measure quickly and unanimously.

Thank you.

Sincerely,

Mel Opatowsky
Chairman
Freedom of Information
Committee

MO/bc

cc: Assemblyman Lloyd Connelly
Judith Epstein, Crosby, Heafey, Roach and May
Steve McNamara, Pacific Sun

Contact: Mel Opatowsky, Managing Editor, The Press-Enterprise,
P. O. Box 792, Riverside, California 92502

City of Martinez

525 HENRIETTA STREET • MARTINEZ
CALIFORNIA 94553 • (415) 372-

March 21, 1986

Assemblyman Dominic L. Cortese
Chairman, Assembly Local Government Committee
State Capitol, Room 2091
Sacramento, CA 95814

Dear Assemblyman Cortese:

The City Council of the City of Martinez urges you to vote "no" on Assembly Bill 2674 (Connelly)--Amendment to Ralph M. Brown Act.

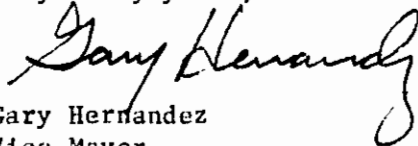
This bill in its present form will present serious problems for city councils. The bill prevents councils from addressing anything not on the agenda except in emergency situations or when serious harm would result to the city if the item is not addressed. Such restrictions would hamper the expeditious handling of a myriad of routine city matters.

This City Council strongly supports any effort which allows for community input or that makes the Council accessible to the members of the community. The proposed bill contains a requirement that a city may not decide on any matter which has not been posted 72 hours prior to a regular meeting. This precludes the council from handling any last minute routine items in the course of their council meeting. While matters of wide-spread interest should be posted in advance, there are a number of last-minute routine non-emergency items which also need the council's attention.

The second problem the City Council has to this bill is that it would render "null an void" a decision inadvertently taken in violation of the Brown Act, even when the violation was not intentional. AB2674 allows 30 days to challenge the action in violation of the Brown Act. This provision would prove extremely costly and would delay the processes of city councils.

We urge you to vote negatively on AB2674.

Very truly yours,


Gary Hernandez
Vice Mayor

GH:mc



March 25, 1986

Assemblyman Lloyd Connelly
Room 2179
State Capitol
Sacramento CA 95814

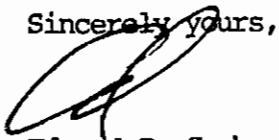
Dear Lloyd:

The City and County of San Francisco has recently completed a review of your Assembly Bill 2674 as amended on March 18.

We regret to inform you that we are in opposition to your measure. In our opinion, the present procedures of the City and County of San Francisco adequately meet the need for public involvement in the actions of the Board of Supervisors, and the various boards and commissions of the City and County of San Francisco. We recognize that there may have been problems in various local government agencies in California which would cause you to introduce AB2674. However, we do not believe the best interest of the City and County of San Francisco would be accomplished by its enactment.

I would be happy to meet with you to discuss the details of our position.

Sincerely yours,



Edward R. Gerber

ERG:ldw

cc: Senator John Foran
Speaker Willie Brown
Senator Milton Marks
Assemblyman Louis Papan
Assemblyman Art Agnos
County Supervisors' Association of California
League of California Cities
Assemblyman Dominic Cortese - Chairman, Assembly Local Government

AB2674/SLC



**California
Grocers
Association**

1400 K Street
Suite 208
Sacramento
CA 95814

P.O. Box 160907
Sacramento
CA 95816

916 448-3545

Don C. Beaver
President
Doris G. Costa
Vice President

Board of Directors
Officers

Chairman of the Board
Manuel Campio
Campio Food Fair, Fairview

First Vice Chairman
Robert Hearn
Vons Grocers Co., Los Angeles

Second Vice Chairman
Charles Collings
Raley's Sacramento

Treasurer
Roger K. Hughes
Hughes Markets, Los Angeles

Past Chairman
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Cala Foods, San Francisco

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W. Ken Calvert
*Marcus & Goodbeck, Inc.,
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Paul Gerrard
Gerrard's Grocery Center, Eastlands

Don Kaplan
*Convenient Food Mart,
San Ramon*

Jack Kent
Turkey Market, National City

Paul Kordinos
*ABC Market Corporation,
Los Angeles*

Ron Koett
*Fry's Food Stores, Inc.,
El Sobrante*

David C. Latsch
*Produce City, Inc., Concord,
Oakland*

Steve Bartholomew
*Ship & Save Market,
Chicago*

Jack Panaro
*Jack's Warehouse Market,
Alhambra*

Michael Prosser
Southland Market, Carson

Charles Spink
*Heming Foods, Inc.,
Pleasanton*

Peter Stalios
Vons Market, Sacramento

Lynnda Trehn
*Sub-Fit General Store,
Culver*

George Soares
General Council

*Serving the food
industry of California
since 1898*

March 24, 1986

TO: Assemblyman Lloyd Connelly
Members, Assembly Local
Government Committee

FROM: Don C. Beaver
Doris G. Costa

RE: AB 2674 (Connelly)
Local Agency Meetings
As Introduced

POSITION: Support

The California Grocers Association supports AB 2674 (Connelly) scheduled for hearing in the Assembly Local Government Committee on Tuesday, April 1, 1986.

This bill would require all local agencies to post agendas for items to be discussed at their meetings and would prohibit action from being taken on an item not appearing on that agenda.

CGA represents California's grocers at the local as well as the state level. We track and monitor items of interest to California grocers by reviewing the meeting agendas of city councils and county boards of supervisors. When an item of interest appears, we alert grocers in the locale and, if necessary, assist them in their endeavors to support or oppose the ordinance.

Advance notice of items is crucial in order to secure input from all individuals affected.

We urge you to vote YES at the hearing of AB 2674.

LM:kb

LEGISLATIVE INTENT SERVICE (800) 666-1917

Chairman,
LOCAL GOVERNMENT COMMITTEE
State Assembly
State Capitol
Sacramento CA 95814

Please register my full support for the Connelly bill,
AB 2674, an amendment to the Brown Act regarding
open meetings.

There is a pernicious attempt under way to water down the
Brown Act, and it is regularly being ignored by numerous
government officials.

The Marin Hospital board of governors is trying to create
a private entity to operate the hospital, for the sole
purpose of evading the Brown Act.

I believe every member of the Legislature should be outraged
at the way the Brown Act law is being violated.

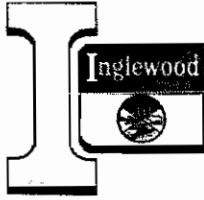
I urge the Committee to provide the measure a DO PASS
vote.

Thank you.

James R. Hamblin

James R. Hamblin
2404 Hurley Way #5
Sacramento CA 95825

March 25, 1986



ONE MANCHESTER BOULEVARD. / P.O. BOX 6500 / INGLEWOOD, CALIF. 90301

March 19, 1986

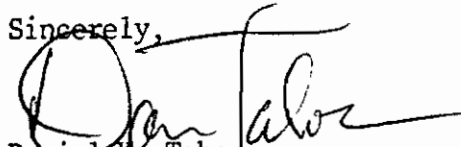
Assemblyman Dominic Cortese
Chairman
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814

Dear Assemblyman Cortese:

I would like to receive information on AB 2674 "Open Meetings:
Local Agencies." I would also like a current status report on
the progress of the bill.

Any information you might be able to give me will be most
appreciated. I look forward to hearing from you soon.

Sincerely,



Daniel K. Tabor
Councilman, District No. 1

DKT:jb

[Faint handwritten notes and scribbles]

OFFICE OF
DANIEL K. TABOR
COUNCILMAN, DISTRICT NO. 1
CITY HALL: 213/412-5320
RESIDENCE: 213/412-5320

CITY OF ORANGE



ORANGE CIVIC CENTER • 300 EAST CHAPMAN AVENUE • ORANGE, CALIFORNIA 92666 • POST OFFICE BOX 449
OFFICE OF MAYOR JAMES BEAM (714) 532-0321

March 28, 1986

The Honorable Dominic L. Cortese
Chairman, Assembly Local Government Committee
State Capitol
Room 6031
Sacramento, CA 95814

Dear Mr. Cortese:

On behalf of the City Council of Orange, I would like to express our opposition to Assembly Bill 2674 which seeks to amend the Ralph M. Brown Act. This important law requires that legislative bodies conduct their deliberations and public business in an open manner.

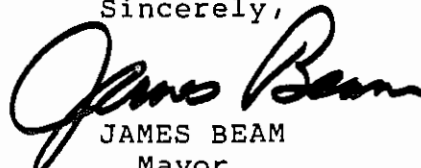
Assembly Bill 2674 seeks to amend the Brown Act by providing that no action be taken by a legislative body on any item not appearing on the posted agenda unless the legislative body makes certain findings of an emergency situation or causing serious public harm by non-action. This is an unnecessary and needless amendment to existing law which will obstruct the routine operations of local governments.

The City of Orange currently prepares and posts its City Council meeting agendas on Friday afternoons for the following Tuesday's regularly scheduled meeting. This provides the public with ninety-six hours of notice, but it is also ninety-six hours of time wherein many unanticipated events may occur. Many items which arise are non-controversial, such as the designation of special days or the presentation of proclamations to worthy individuals or organizations. But, some events may be of an urgent nature which should be acted upon by the legislative body immediately. However, in most cases, they would not qualify as an emergency or would cause harm to the public by not acting and, therefore, would not meet the proposed vote criteria set forth in the amendment. In Orange, these items are usually of a nature which, if not acted upon, could result in unnecessary costs to the City Government, disrupt the timely and orderly transaction of official business, create a serious time problem for a citizen, postpone a report of interest to the public by a City Councilman or City department or be one of numerous other valid reasons why the Council should be able to act upon such off-agenda issues at that meeting.

The Honorable Dominic L. Cortese
March 28, 1986
Page 2

If a 72-hour "embargo" on agenda items can be justified, then it is urged that the proposed legislation be modified to allow any item to be considered upon two-thirds vote of the City Council. Otherwise, the revisions proposed by Assembly Bill 2674 will severely impair the ability of local legislative bodies to attend to public business in a timely manner. It further reduces the flexibility which is presently allowed public agencies which can only result in more costs and less responsiveness to the citizens. I strongly urge you to oppose Assembly Bill 2674 and would request that members of your committee are made aware of the City of Orange's opposition to this Bill.

Sincerely,


JAMES BEAM
Mayor

JB:al

LEGISLATIVE INTENT SERVICE (800) 666-1917

to the process of open meeting laws as applied to local governing bodies. We are concerned, however, that the Brown Act itself contains no meaningful notice and agenda requirements, and no meaningful remedy for violations.

As a result of these deficiencies, the Brown Act is subject to either willful or careless abuse by elected representatives. Acting entirely within the letter of the law, the spirit of the law has been repeatedly violated by some who are in positions of power and responsibility within city and county government. Controversial and very important subjects have been summarily initiated, discussed and acted upon without any public notice or supporting documents being made available to the citizens either prior to or during regularly scheduled meetings. Critical support documents have not been available even after meetings have been adjourned.

It is commendable and very much appreciated when local elected representatives choose to abide by the spirit of the law. However, dependable, trust-worthy government requires more than choice by those who serve the public. It is essential that the letter of the law be clearly spelled out in the Brown Act. There can be no uncertainty about what the public has a right to know or when they can know it.

The members of the Federation believe the amendments to the Ralph M. Brown Act as proposed by yourself and Ross Johnson will help make it possible to have truly responsible, representative local government.

The members of the Federation of Neighborhood Associations of Nevada County support Assembly Bill # 2674.

Sincerely,

Betty Simpson
President
Federation of Neighborhood Associations

BS:d

cc: Ross Johnson
1501 N. Harbor Blvd., Suite 201
Fullerton, Ca. 92635

Dominic L. Cortese
100 de San Antonio, Suite 300
San Jose, Ca. 95113

Wally Henger
1521 Butte House Road, Suite C
Yuba City, Ca. 95991





SMUD

SACRAMENTO MUNICIPAL UTILITY DISTRICT

P. O. Box 15830, Sacramento CA 95852-1830, (916) 452 3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

March 26, 1986

The Honorable Lloyd Connelly
The Assembly
State Capitol, Room 2179
Sacramento, CA 95814

Dear Lloyd:

AB 2674 OPEN MEETINGS: LOCAL AGENCIES

yes

The Sacramento Municipal Utility District no longer opposes your bill, AB 2674, as amended on March 18, 1986. We appreciate your cooperation in handling our concerns with this bill.

Sincerely,

Stuart E. Wilson
Supervisor
State Government Affairs

cc: Members, Assembly Committee on Local Government
Casey Sparks, Consultant

MICHAEL F. DILLON & ASSOCIATES INC.

PARK EXECUTIVE BUILDING • 925 L STREET • SUITE 600
SACRAMENTO, CALIFORNIA 95814 • (916) 448-2198

March 25, 1986

Honorable Wally Herger
Member of the Legislature
State Capitol
Sacramento, CA 95814

Dear Wally:

The County Superintendents of Schools have taken a support position on your ACA 36.

Thanks for your interest in this area.

Sincerely,



MICHAEL F. DILLON

MFD:d

cc: Assemblyman Dominic Cortese
Chairman, Assembly Local Government Committee
Committee Consultant

LEGISLATIVE INTENT SERVICE (800) 666-1917



SACRAMENTO MUNICIPAL UTILITY DISTRICT

P. O. Box 15830, Sacramento CA 95852 1830. (916) 452 3211
AN ELECTRICITY FIRM SERVING THE HEART OF CALIFORNIA

March 26, 1986

The Honorable Lloyd Connelly
The Assembly
State Capitol, Room 2179
Sacramento, CA 95814

Dear Lloyd:

AB 2674 OPEN MEETINGS: LOCAL AGENCIES

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Sincerely,

Stuart E. Wilson
Supervisor
State Government Affairs

cc: Members, Assembly Committee on Local Government
Casey Sparks, Consultant

March 25, 1986

James L. Gorman, Legislative Counsel
Rm. 6034 State Capitol
Sacramento, Cal. 95832

Dear Sir:

We are writing to strongly urge your vote in favor of the Connolly Bill AB 2674, being a cloture in your committee on April 9, 1986.

This is a vitally needed addition to the Brown Act to help insure that all public business is conducted openly before an informed public. Under present conditions, a local governmental agency, without giving proper notice and with no fear of the consequences, can, and frequently does, act on an issue that often has devastating and long term effects on an individual or group.

Speaking from personal experience and observation, in Nevada County, the Bd. of Supervisors has often quietly introduced, discussed and acted on important items under the heading of New & Old Business, without publishing the specific items on the agenda. New and Old Business, as currently practiced, can be brought up at any time during the day. It has become increasingly obvious that it is brought up when there is no one in the Board room that might be adversely affected, no one likely to question the issues, or until so late in the day that most observers will have gone home.

Whenever this kind of cavalier attitude toward concerned citizens of the community exists, local government must by some means be held more accountable for their actions. Again, we cannot emphasize strongly enough the need to work toward passage of this Bill out of committee with a favorable vote and carrying with it no crippling amendments.

Sincerely,

Robert A. Plummer
Barthel V. Hansen
1213 Heritage Pl.
Nevada City, Ca.



Peace Officers Research Association of California

STATE OFFICE
1911 F Street • Sacramento, CA 95814
(916) 441-0660
(800) 952-5263

SOUTHERN CALIFORNIA REGIONAL OFFICE
268 North Lincoln, Suite 15B
Corona, CA 91720
(714) 734-0885

March 27, 1986

Honorable Dominic Cortese
Chairman
Assembly Local Government Committee
State Capitol
Sacramento, California 95814

RE: AB 2674 (Connelly)
HEARING: April 1, 1986

Dear Assemblyman Cortese,

The largest contingent of law enforcement officers in California, PORAC, representing over 500 local peace officer associations, is in support of AB 2674.

This bill is a logical follow-up to previous legislation signed into law last year.

All local citizens and those individuals and organizations that are involved with these hearings and meetings, have a right to be informed about issues their government is bringing forth for discussion or action.

We urge a yes vote on this measure.

Sincerely,

WILLIAM SHINN, Director
Legislative Division

WS/nje

cc: Members of the Committee
Assemblyman Lloyd Connelly

LEGISLATIVE INTENT SERVICE (800) 666-1917





Peace Officers Research Association of California

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SOUTHERN CALIFORNIA REGIONAL OFFICE
268 North Lincoln, Suite 15B
Corona, CA 91720
(714) 734-0885

March 27, 1986

Honorable Dominic Cortese
Chairman
Assembly Local Government Committee
State Capitol
Sacramento, California 95814

RE: AB 2674 (Connelly)
HEARING: April 1, 1986

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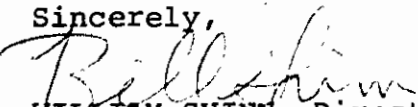
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Sincerely,


WILLIAM SHINN, Director
Legislative Division

WS/nje

cc: Members of the Committee
Assemblyman Lloyd Connelly

LEGISLATIVE INTENT SERVICE (800) 666-1917



CITY OF TORRANCE

3031 TORRANCE BOULEVARD, TORRANCE, CALIFORNIA 90509-2970
KATY GEISSERT, MAYOR
TELEPHONE (213) 618-2801

March 27, 1986

The Honorable Dominic L. Cortese
Chairman, Assembly Committee on
Local Government
State Capitol
Sacramento, California 95814

RE: AB 2674 (Connelly) - Proposed Amendment
to Ralph M. Brown Act

Dear Mr. Cortese:

On April 1, 1986, the Assembly Committee on Local Government will again have before it for reconsideration, presumably with some amendments, the above-referenced bill (copy attached), which failed to meet with your approval March 11, 1986.

By means of this letter we express to you our opposition to the proposed bill, and we express our disappointment with those legislators who obviously distrust local government officials. The City of Torrance joins with cities throughout the state in opposing this legislation. We believe this bill would drastically slow routine city business, remove control over city council and committee agendas, and may even nullify decisions made by these bodies if the actions unintentionally violate the Brown Act. Further, the legislation may conflict with various city charters. All of these impediments to local government operation are proposed without any documented justification.

Sincerely,

Katy Geissert
Katy Geissert
Mayor

Attachment

LEGISLATIVE INQUIRY SERVICE (800) 666-1917

California Common Cause

3/31/86 Memo

... citizens working for better government . . .

To: All Members of Assembly Local Government Committee
From: Steve C. Barrow, Legislative Advocate

RE: AB 2674 by Assembly Member Connelly -- Local Government Open Meeting Law Revision
Scheduled for Vote Only in ALG Tuesday April 1
California Common Cause Urges You to Vote Aye On AB 2674

Summary: The Ralph M. Brown Act, the local government open meetings law, contains no meaningful notice or agenda requirements, and no meaningful remedy for violations.

There are five categories of local government meetings: regular meetings; special meetings; emergency meetings; adjourned meetings; and continued hearings. This bill addresses changes to only regular and special meetings.

AB 2674 creates specific agenda notification requirements and provides reasonable, but meaningful remedies for violations of the open meeting law. The main thrust of the bill is to inspire local officials to abide by the law.

Currently school districts and college districts abide by a 48 hour posted notice requirement; the Bagley-Keene Open Meeting Act requires state agencies to mail to interested parties a notice and specific agenda 10 days in advance of meetings; and the State Legislature requires four days posting of committee agendas in the daily file.

Current Law: The Ralph M. Brown Act requires, with certain exceptions, that all local government meetings be open to the public. But, the Act does not contain any meaningful agenda notification requirements or any meaningful means for the public to address violations of the open meeting law.

Proposed Changes: AB 2674 does the following:

- requires local government bodies to post a specific agenda 72 hours in advance of a meeting;
- will authorize citizens to challenge actions taken in violation of the open meetings law and if successful have such actions declared "null and void" (actions in violation of the open meeting law -- requiring meetings, with exceptions, to be open, and agendas to be noticed-- will be subject to judicial challenge);
- requires that before a lawsuit is filed against the local body for an alleged violation of the Brown Act, the local body be given an opportunity to cure or correct the violation;
- requires that a written demand to cure or correct a violation be filed with the local body 30 days from the date the challenged action was taken;
- allows the local body, with a 2/3rd vote, to place new items on the agenda which arose unexpectedly subsequent to the agenda being posted;
- allows emergency items, as defined in the Brown Act, to be added to the agenda subsequent to the agenda being posted.

STATE HEADQUARTERS

926 J STREET, STE. 910
SACRAMENTO, CA 95814
(916) 443-1792

636 SO. HOBART BLVD., STE. 226
LOS ANGELES, CA 90005
(213) 249-2017

1535 MISSION STREET
SAN FRANCISCO, CA 94103
(415) 864-3060

AP - 96b



Comments: 1- Although most local government bodies usually abide by the spirit of the local government open meeting laws, there is a growing list of violations which prevent citizens from participating fully in the government closest to them. AB 2674 simply and fairly strengthens the requirement expressed in the Brown Act that the public's business be done in the open and that citizens be given meaningful announcement as to the business that is to be conducted at a public meeting.

2- AB 2674 takes into account that situations may and do arise unexpectedly and subsequently to agendas being posted by allowing the local body to add items to their agenda with a 2/3rds vote of the body.

3- This bill does not alter the specific requirements that some issues need to be discussed privately, such as personnel and litigation issues.

4- Frivolous lawsuits are prevented and finality of government actions are protected by providing a closed ended amount of time in which actions can be challenged. And, local bodies and its citizens are provided a cost effective and expeditious means of correcting violations by allowing the local body to cure the violation before judicial action becomes necessary.

5- In recognition of the need for finality of government action the following are exempt from the "null and void" provisions of the bill:

- actions taken in substantial compliance with the Brown Act;
- contractual obligations upon which a party has, in good faith, detrimentally relied;
- actions taken in connection with the collection of any tax;
- actions taken in connection with the sale or issuance of notes, bonds or other evidences of indebtedness.

6- Nothing has a more chilling effect on the local government process than the public's distrust of that process. As the Brown Act states, the people of this state, at the state government and local government level, have not relinquished their independent political authority to the agencies created to 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 they may retain control over the instruments they have created." AB 2674 makes the Brown Act meaningful in this regard.



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Date of Hearing: April 1, 1986

AB 2674

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
DOMINIC L. CORTESE, Chairman

AB 2674 (Connelly) - As Amended: March 18, 1986

ASSEMBLY ACTIONS:

COMMITTEE _____ VOTE _____ COMMITTEE _____ VOTE _____

Ayes:

Ayes:

Nays:

Nays:

SUBJECT

This bill would modify the Brown Act to require local agencies to post specific agendas 72 hours prior to conducting a meeting; prohibit a legislative body from taking action on items not on the posted agenda; require local agencies to establish regulations to provide the public the opportunity to address the legislative body; and would render actions null and void if the action is determined to be in violation of the Brown Act.

DIGEST

Current law under the Ralph M. Brown Act, requires all meetings of a legislative body of a local agency to be conducted open and public. The law generally requires prior written notification of all regular meetings of a local agency. The Brown Act requires 24-hour notice of meetings and allows for "emergency" meetings without prior notice in certain situations. In addition current law authorizes all local agencies to establish rules and regulations which allow for greater public access.

This bill would require posting of an agenda 72 hours prior to a regular meeting of a local agency. It would prohibit the legislative body from acting on any item not included in the agenda, unless a majority of the legislative body makes a finding that an "emergency" situation exists, or finds, by a 2/3 vote of the legislative body, that the need to take an action arose subsequent to the agenda being posted.

Assembly Bill 2674 would specify that a local agency can call a special meeting at any time if a majority of the legislative bodys' membership and the press is notified at least 24-hours prior to the meeting.

This bill would require local agencies subject to the Brown Act (such as county boards of supervisors, city councils, their standing committees, special

- continued -

AB 2674

district boards and local commissions, such as planning commissions) to establish regulations which provide the public the opportunity to address the legislative body at each regular meeting.

In addition, AB 2674 would allow any interested person to take action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body or local agency is in violation of the Brown Act and is therefore null and void. Such an action would have to be taken within 30 days from the date of the legislative action. If the legislative body cures or corrects its action, the case would be dismissed with prejudice.

Under AB 2674, exceptions to the null and void provisions would include actions which involved the sale or issuance of bonds, a contractual agreement, the collection of taxes, or cases where the action was determined to have been in "substantial" compliance with the Act.

FISCAL EFFECT

State mandated local program. Potential significant costs for required written, mailed and published notice requirements.

COMMENTS

1. Opponents to Assembly Bill 2674 contend that the measure unnecessarily ties local agency hands. It is argued that the "no action" provision would prohibit the council from acting promptly on matters which may be in response to public requests on noncontroversial items like street closings for parades, release of developer's bonds, repair requests, or resolutions honoring citizens.

In addition, opponents believe that the "null and void" provision would have a chilling effect for 30 days on all council actions.

2. Supporters of Assembly Bill 2674 argue that the Brown Act needs "teeth" because local agencies are currently able to skirt the spirit and letter of the law, and thus conduct public business without public participation. AB 2674 would, by requiring the posting of a specific agenda, give the public more advance notice and increased opportunities for participation in government decision making.

In addition, it has been argued that even when there has been a noted violation of the Brown Act, the action that was the subject of the violation stands. AB 2674 would render these action null and void, thus putting "teeth" into the Brown Act.

- continued -

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3. The Bagley-Keene Open Meeting Act requires state boards and commission to conduct open meetings and to provide specific agendas in advance. In addition, the Legislature operates under specific rules regulating its meeting notices and agendas. The Legislative rules are allowed to be waived without prior public notice when a member desires to move his or her legislation, by 2/3 approval of both houses, regardless of the urgency of the issue.

SUPPORT

OPPOSITION

Below is a list of support/opposition received since March 11, 1986:

California Grocers Association
California Society of Newspaper
Editors

San Mateo County Council of Mayors
City and County of San Francisco
City of San Luis Obispo
City of Bradbury

Mary McMillan
445-6034.
al.gov.

AB 2674
Page 3



NATHAN A. SIMON
MAYOR

DONALD F. DAY
MAYOR PRO TEM

GARY E. BOYLES
CHARLES A. KOEHLER
WILLIAM KRAGNESS
COUNCIL MEMBERS

JACK D. RATELLE
CITY MANAGER



PATRICIA M. MURRAY
CITY CLERK
JOHN D. PIAZZA
CITY TREASURER

City of Fontana CALIFORNIA

April 2, 1986

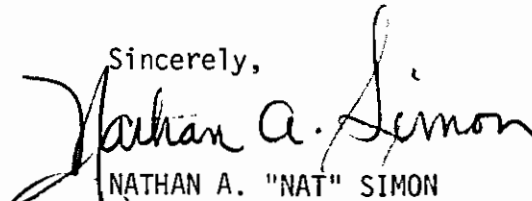
Honorable Assemblyman Cortese
Chairman, Local Government Committee
State Capitol
Sacramento, CA 95814

Dear Assemblyman Cortese:

On behalf of the City of Fontana, I strongly urge each member to OPPOSE AB 2674. As you are aware, AB 2674 allows the public to place items on the council agenda directly. In my opinion, such assessibility could cause an administrative nightmare for any city council. While there are numerous additional problems with AB 2674, I firmly believe that no need has been documented justifying the bill; therefore, I once again urge you to oppose this bill.

If I can be of any further assistance, please do not hesitate to call me at (714) 350-7601.

Sincerely,


NATHAN A. "NAT" SIMON
Mayor

NAS:HG:jm

BARBARA S BLINDERMAN

ATTORNEY AT LAW

BARBARA S. BLINDERMAN
ELLIOTT E. BLINDERMAN
COUNSEL TO THE FIRM

315 SOUTH BEVERLY DRIVE, SUITE 406
BEVERLY HILLS, CALIFORNIA 90212

(213) 557-9991
(213) 557-9992

April 21, 1986

Honorable Alex Fiore
Mayor, City of Thousand Oaks
401 West Hillcrest Drive
Post Office Box 1496
Thousand Oaks, CA 91360

Re: AB 2674

Dear Mayor,

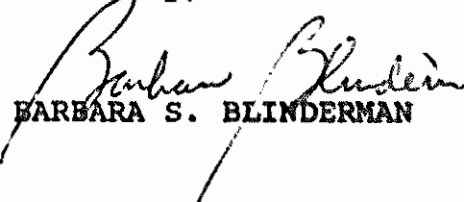
Thank you for sending me copies of your letters concerning Thousand Oaks commitment to the Ralph M. Brown Act. I welcome your statement of endorsement and support of its provisions.

It was also helpful to hear that the public is welcome at caucus sessions. As you can see from my statement to the committee, which I've enclosed, my concern was with the effect of the location of the caucus. It can be intimidating to a citizen to see a legislative body convening in a small room adjacent to Council Chambers. The point I was making was that AB 2674 would alert interested citizens to both the public nature and the subject matter to be discussed at the caucus.

Your letter raises another interesting point. Why not hold the caucus in council chambers, rather than in the small adjacent room? Would that not reinforce the open nature of all your proceedings?

Also, based on your strong commitment to the Brown Act, I hope the City of Thousand Oaks will enthusiastically support AB 2674. It is a good bill and by formal endorsement Thousand Oaks could set the standard for the commitment of cities to open government.

Sincerely,


BARBARA S. BLINDERMAN

BSB:flg
cc: See Attachments

LEGISLATIVE INTENT SERVICE (800) 666-1917



April 21, 1986 - 2
Mayor Alex Fiore

cc:

Assemblyman Gerald Eaves
Assemblyman Bruce Bronzan
Assemblyman Bill Bradley
✓ Assemblyman Dominic Cortese
Assemblyman Richard Robinson
Assemblyman Richard Mountjoy
Assemblyman Robert Frazee
Assemblyman Dan Hauser
Assemblyman Charles Calderon
Assembly Local Government Committee
State Capitol
Sacramento, CA 95814





WE LOVE LOS ANGELES

STATEMENT TO ASSEMBLY LOCAL GOVERNMENT COMMITTEE

Re: AB 2674

Date: March 11, 1986

My name is Barbara Blinderman. I am an attorney in practice in the Los Angeles area. I am here to speak for Not Yet New York (We Love Los Angeles). Not Yet New York, is a non-partisan Los Angeles citizen coalition formed to promote good government and good planning. The Coalition represents homeowner associations, renters, senior citizens, businessmen, and city planners.

AB 2674 is an important bill to us because we believe that open government is a prerequisite to good government and that the Ralph M. Brown Act is desperately in need of the amendments introduced by Assemblymen Connelly and Johnson.

Since we began our campaign to support the efforts to enact AB 2674 into law, we have been receiving examples of the kind of abuses the provisions of this bill will help to eliminate.

Item: Cultural Heritage action in Pasadena. No agenda. No time or place designation of formal meeting. An interested citizen, hearing of a matter to be considered, rushes to City Hall, finds a locked door, and pounds on it, seeking entry. She is admitted, and the door locked behind her. Other interested citizens follow the same pattern, and the door is locked again.

AB 2674, by requiring prior notice including time and place, would prohibit local legislature bodies from holding these kinds of meetings.

Item: Meeting of a Los Angeles Community Redevelopment Agency Committee. Public not admitted. Items are approved then placed on a consent agenda before the full C.L.A. Board, with

Re: AB 2674 - 2

neither discussion nor public comment allowed. AB 2674 would provide the opportunity for members of the public to address local governing bodies and would prevent this kind of evasion of public input.

Item: City of Los Angeles Consideration of action that would permit demolition of existing homes. 6:00 P.M. At a meeting of a Council Committee, an item is introduced, approved, and placed on the next morning's calendar for action by the full City Council. Justification for the action? Political hot potato. AB 2674 would prevent the City Council from taking precipitous action by requiring the posting of an agenda 72 hours in advance.

Item: City of Thousand Oaks. Regular meeting agendaed, with time and place specified. Prior to the formal meeting, the City Council caucuses in a small room adjacent to Council chambers, to discuss the agenda. The fact and place of the caucus is noticed. An interested citizen, only somewhat intimidated, enters the caucus room. Discussion stops -- then continues in a restrained manner. The citizen believes that the tone of the caucus is changed by his entry. He wonders what they were saying before he came in. AB 2674 could discourage such intimate meetings by requiring the prior posting of time and place of items to be considered.

Item: February 14, 1986, Consideration of AB 2674 by the Los Angeles City Council. The item is posted on the morning of its consideration on an "Additional Agenda." No public input is solicited or heard. The Council directs its Sacramento lobbyist to oppose AB 2674. Because there was no emergency, and no dire public need for immediate action, the Council could not have acted if AB 2674 had been in effect.

Subsequent to the Council's action, representatives of Not Yet New York solicited the support of individual Council members and asked them to reconsider their opposition. We pointed out that the City's major objections to the bill had been addressed in the February 28 amendment. Specifically, the bill, as revised, permits local legislatures to adopt reasonable regulations to control public testimony. It provides reasonable exceptions to the prior notice requirement. And it imposes reasonable limits on the remedy of voiding actions taken in violation of its provisions in the case, for example, of contracts, and the sale or issuance of notes and bonds.

We have to date received favorable written comment from one Councilman, Hon. Marvin Braude, who states,

"I support the majority of the Connelly bill, particularly as it relates to agenda notice."

Re: AB 2674 - 3

In supporting the need for advance notice, he pointed out, that when items are brought in without notice -

"Not only does the public not have a legitimate chance to react, become familiar with, and comment, but very likely the Council members themselves are faced with the same problem."

Mr. Braude's concerns were with need for "a very limited ability to suspend the rules of notice" where there is a "real need for Council to react to an emergency in a legitimate need for urgency." He further felt the need to impose reasonable restraints on public testimony. I have a copy of the letter, if you so request.

We have not as yet received further response. When we canvassed Council offices last Friday, we discovered that most of the Councilmen were on their way to Washington, D.C. We did receive assurances, however, from at least four other Council offices (Picus, Wachs, Bernardi, and Bernson), that those officials have historically supported open government and that they would seriously review the amendments to AB 2674.

We hope the City Council will come around. Events of last week, however, suggest that despite their protestations of commitment to open government it will take action by the State legislature to correct the abuse.

The following article, from the Daily News, dated March 9, 1986, explains better than anything else why your approval of AB 2674 is necessary.

I quote:

"When Los Angeles City Council members got caught last summer sneaking through a pay raise for themselves via a last-minute addition to their agenda, some state legislators started pushing for advance notice requirements.

After last week's rush of last minute addition, the push in the state legislature could come to shove in favor of a tough new law requiring 72 hours advance notice of items to be considered in public meetings.

City officials have said it was unrealistic to require that agendas be printed three days ahead of time in a city the size of Los Angeles where major emergencies can require immediate action. Besides, council members claimed, they had cleaned up their act to at least provide full public disclosure of last-minute items.

Re: AB 2674 - 4

But that claim was in tatters last week when council members rushed frantically to get major business out of the way so they could fly off to Washington, D.C.

After completing their Tuesday calendar, the council raced through seven last-minute additions, most of which were anything but routine. During one hectic 10-minute period the council started assessment proceedings in the Bryant-Vanalden area in Northridge, took sides in a lawsuit over condors, extended a private law firm's contract for cable television litigation and supported \$65 million in tax-exempt financing for the Coliseum.

There was no way the press or public could know the items were coming up. Some were still being distributed as roll calls were taken. Some had been scrawled out by hand and reproduced on the copying machine in the next room.

Even career bureaucrats had a tough time keeping up with the council action.

'I used to think I had a good handle on what the council was doing,' said one top city financial adviser. 'But now they have completely lost me.'

AB 2674 is a good bill. We are here to solicit your support.

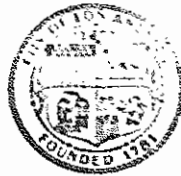
Thank you for listening.



City of Los Angeles
16425 Burbank Boulevard
(818) 989-8150

Valley Office
18425 Burbank Boulevard
(818) 989-8150

West Los Angeles Office
1645 Conant Avenue
(213) 312-8461



Marvin Braude
Councilman

City Council Committees
Planning, Building & Safety
Public Works, Public Health,
Human Resources & Senior Citizens
Member, Personnel & Labor Relations

Member, Santa Monica Mountains
National Recreation Area
Advisory Commission
Member, South Coast Air Quality
Management District Board

Ms. Barbara Blinderman
Attorney-at-Law
315 So. Beverly Drive, Suite 406
Beverly Hills, CA 90212

February 28, 1986

Dear Barbara:

I am happy to write a letter concerning my views on AB 2674. Not only do I concur with you but I have already raised the issue among my colleagues. In fact, I am also sharing with you a letter I submitted to Councilwoman Joan Flores last October regarding an item that I requested be discussed in the Rules Committee of the City Council. The number one concern I have had regarding the rules governing the City Council is the number of "specials" brought in without notice. Not only does the public not have a legitimate chance to react, become familiar with and comment, but very likely the Council members themselves are faced with the same problem.

In concept, I support the majority of the Connelly bill, particularly as it relates to agenda notice. My only concern with this section is that a very limited ability to suspend the rules of notice needs to be retained when there is a specific and real need for Council to react to an emergency or a legitimate need for urgency. Such an item might be the request to the Mayor and Governor to declare a disaster area after some major problem of flood, fire, etc. has occurred. Other examples are: time limit situations; applications for federal funds where all that is authorized is making a request and the matter will return to the Council later; interest running on a court judgment; and street closings for special events (e.g. 4th of July at neighborhood cul-de-sac for three hours, etc).

The public input portion of the bill, I feel, requires some time limit restraint. I am not questioning the right of the public to speak and address the Council on issues, but there must be a reasonable allotment of time in which this occurs. Councilmembers, for example, even limit themselves to five-minute segments to speak on issues before it is someone else's turn to speak.

With amendments such as these, I believe the Connelly bill provides a reasonable mechanism for controlling public access and availability to the City Council.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maurice". The signature is fluid and cursive, with a large initial letter.

KNBC EDITORIAL

KEEPING LOCAL GOVERNMENT OPEN

There's something incomplete about state government passing laws telling local levels how to hold open meetings.

The state, after all, has its own ways of making dark, back-room deals

Still, somebody has to keep cities, counties, school and special districts open to the taxpayers, and that somebody might as well be the state. State lawmakers certainly know all the tricks.

What tricks? The slickest trick is acting on some controversial matter before anyone notices. Some cities have been known to vote council members big pay raises that way. And that's also how to make zone changes neighbors won't like.

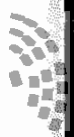
All that would be outlawed under legislation moving through Sacramento. All agenda items would have to be posted 72 hours in advance, except for fires, floods or other defined emergencies.

The penalty would be that any action taken without proper notice would be null and void.

Good.

Now all we need is some way to keep Sacramento open, too.

#B-301
Broadcast times: 3/6-6:28PM; 3/6-Signoff; 3/7-6:27AM
Time: 1:00



NEWS Sunday, March 8, 1988/DAILY NEWS
Reporters' notebooks

Los Angeles City Hall

Council remains partial to hyper-speed legislation

By JOYCE PETERSON
and MARY ANN WILKOWSKI
Times Staff Writers

When Los Angeles City Council members got caught last summer sneaking through a pay raise for themselves via a last-minute addition to their agenda, some state legislators started pushing for advance notice of items to be considered in public meetings.

After last week's rush of last-minute additions, the push in the state legislature could come to a halt in favor of a tough new law requiring 72 hours advance

notice of items to be considered in public meetings. City officials have said it was unrealistic to require that agenda be printed three days ahead of time in a city the size of Los Angeles where major emergencies can require immediate action. Besides, council members claimed they had cleaned up their act to at least provide full public disclosure of last-minute items.

But that claim was in tatters last week when council members were rudely frustrated to get major business out of the way so

they could fly off to Washington D.C.

After completing their Tuesday calendar, the council raced through seven last-minute additions, most of which were anything but routine. During one hectic 10-minute period the council started assessment proceedings in the Bryant-Vanalden area in Northridge, took sides in a lawsuit over conduct, extended a private law firm's contract for cable television litigation and supported \$85 million in tax-exempt financing for the Coliseum.

There was no way the press or public could know the items were coming up. Some were still being distributed as roll calls were taken. Some had been scribbled out by hand and reproduced on the copying machines in the next room.

Even career bureaucrats had a tough time keeping up with the council action. "I used to think I had a good handle on what the council was doing," said one top city financial adviser. "But now they have completely lost me."

High-tech redistricting

Maybe computers are smarter than people when it comes to drawing political boundaries.

There was a great deal of rumormongering over the map developed by the Mexican American Legal Defense Educational Fund which sought to create a second Hispanic City Council district. Councilman John Ferrero was not amused at RALDIE's plan to achieve this goal by moving his Fourth District to part Los Angeles.

204 1st Avenue, Long Beach, California 90844 Telephone 435-1116

LARRY ALLISON
Editor

DANIEL H. RIDDER
Publisher

VANCE CAESAR
General Manager

JOHN J. FRIED
Editorial Page Editor

RICH ARCHBOLD
Managing Editor

DON OHL
Associate Editor

A move to tighten Brown act provisions

Putting a bicuspid or two into anti-secrecy law.

California's Ralph M. Brown Act states a simple ideal: that the public's business shall be done in view of the public.

Public officials manage to get around the act a good deal of the time. They hold closed meetings with vague explanations. They leave town on "retreats." In one notorious case last year, the Los Angeles City Council members suspended their rules and voted unanimously for Item 53. The item wasn't on the meeting agenda. No one would have known what it was if an alert reporter hadn't checked later and discovered that Item 53 gave council members a 10 percent pay raise.

Did that violate the spirit of the Brown Act? You bet. Did it violate the letter of the law? Nope. And if it had, the only remedy under current law would have been criminal prosecution of the council members. No such criminal prosecution has ever been undertaken. It's unlikely one ever will be. It's even less likely such a prosecution would be successful. So the current law is obeyed only to the extent that the press, public opinion and concerned public officials manage to persuade government bodies to obey it. Their success in doing so is spotty.

Legislation to make the Brown Act a bit more effective has been

introduced by Assemblymen Lloyd G. Connelly, D-Sacramento, and Ross Johnson, R-Fullerton. Their bill, AB 2674, would require local government agencies to post specific agendas before meetings, and it would allow citizens to go to court to have actions taken in violation of the Brown Act declared null and void.

The bill wouldn't cure all local government secrecy problems, but it would put a stop to stunts like the Item 53 pay raise. It would block the practice of adding last-minute items to agendas and then voting on them without discussion in the hope reporters won't notice. And, when the Brown Act is violated, it would give John or Mary Citizen a chance to ask a court to say so and require the government agency involved to handle the action involved all over again in the light of day.

The bill is endorsed by the California District Attorneys Association. The DAs are tired of having to tell concerned citizens that they won't take on the almost impossible task of prosecuting Brown Act violators. "Take 'em to court yourself," the district attorney will be able to say. "If you win, the court can order the local agency to pay the court costs and your legal fees."

That holds some promise of deterring Brown Act violations. AB 2674 should become law.

LEGISLATIVE INTENT SERVICE (800) 666-1917

CONCURRENCE IN SENATE AMENDMENTS

AB 2674 (Connelly) - As Amended: June 4, 1986

ASSEMBLY VOTE 69-4 (April 14, 1986) SENATE VOTE _____ (_____)Original Committee Reference: L. GOV.DIGEST

Current law, the Ralph M. Brown Act, requires all meetings of a legislative body of a local agency to be conducted openly and publicly. The law generally requires prior written notification of all regular meetings of a local agency. The Brown Act requires 24-hour notice of meetings and allows for "emergency" meetings without prior notice in certain situations. In addition, current law authorizes all local agencies to establish rules and regulations which allow for greater public access.

As passed by the Assembly, this bill:

- 1) Required posting of an agenda 72 hours prior to a regular meeting of a local agency. It prohibited the legislative body from acting on any item not included in the agenda, unless a majority of the legislative body made a finding that an "emergency" situation exists, or finds, by a 2/3 vote of the legislative body, that the need to take an action arose subsequent to the agenda being posted.
- 2) Specified that a local agency can call a special meeting at any time if a majority of the legislative body's membership and the press is notified at least 24 hours prior to the meeting.
- 3) Required local agencies subject to the Brown Act (such as county boards of supervisors, city councils, their standing committees, special district boards and local commissions, such as planning commissions) to establish regulations which provide the public the opportunity to address the legislative body at each regular meeting.
- 4) Allowed any interested person to take action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body or local agency is in violation of the Brown Act and is, therefore, null and void. Such an action would have to be taken within 30 days from the date of the legislative action. If the legislative body cures or corrects its action, the case would be dismissed with prejudice. Exceptions to the null and void provisions include actions which involved the sale or issuance of bonds, a contractual agreement, the collection of taxes, or cases where the action was determined to have been in "substantial" compliance with the act.

- continued -

The Senate amendments generally apply the above provisions to K-12 and community college district boards of directors, as well as local legislative bodies.

FISCAL EFFECT

The bill creates a state-mandated local program by requiring local agencies and K-12 and community college districts to comply with stricter notification and public testimony requirements. The costs of this mandate probably would be minor.



OFFICE
OF THE
MAYOR

City Hall, Pomona, California 91769

G. STANTON SELBY
Mayor

March 7, 1986



Honorable Dominic Cortese
Chairman, Local Government Committee
State Capitol
Sacramento, California 95814

Re: OPPOSITION TO AB2674

Dear Assemblyman Cortese:

AB2674, as introduced by Assemblyman Lloyd Connelly (D-Sacramento), would introduce several new and unnecessary restrictions on City Council meetings.

According to the League of California Cities, these provisions of the proposed act are as follows:

- . Require agenda be posted 72 hours prior to regular meetings and 24 hours prior to special meetings.
- . Prohibits off-agenda items, except for "emergency situations" defined by the Act. However, under such situations, all interested newspapers and radio/TV stations must be notified in advance.
- . Prohibits closed sessions to deal with defined emergency situations.
- . Would allow members of the public to place items directly on the agenda.
- . Would allow members of the public to address the Council on Agenda Items (which we allow now).
- . Requires a closed session be listed on the Agenda. Council must cite statutory authority for such a closed session.
- . Any actions violating the above Agenda or closed session rules would be null and void if challenged within a thirty-day period.



Assembly Local Gov't Comm.
AB2674 Brown Act
Page Two

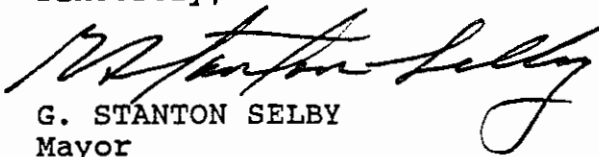
Some provisions we could live with, but others like the prohibition of off-agenda items will really prevent cities from responding to last minute or urgent items which require Council approval. The exception would be an "Emergency Situation" as declared by a majority of the Council as a result of a crippling disaster, work stoppage or other activity which impairs public health or safety. In such cases, interested newspapers and radio/TV stations must be notified one hour prior to such an emergency meeting by telephone. More importantly, it renders "null and void" any decision in violation of AB2674 even if not intended.

The Legislation allows thirty days for a lawsuit to be filed claiming a violation of the new Act. We can expect considerable expense and delay in dispersing funds, executing contracts or issuing bonds during this thirty-day period. If a contract is not legal, the contractor cannot be paid.

Requirements that procedures be set up to allow citizens to place items directly on the Agenda take away ability to manage the Agenda and balance the workload of staff and the City Council. Pomona, like most communities, provides a Communications Section in the Agenda for general citizen input. Further, at regular Council meetings, citizens are allowed/encouraged to communicate their thoughts on items under consideration. These basic citizen participation rights are as provided by Section 506 of our City Charter. The additional provisions of AB2674 are not necessary.

On behalf of the Pomona City Council, I urge your strong opposition to AB2674 when it is heard by the Assembly Local Government Committee.

Sincerely,



G. STANTON SELBY
Mayor





CITY CLERKS ASSOCIATION OF CALIFORNIA

March 10, 1986

PRESIDENT

Pamela S. Swift, CMC
City of Pasadena
(818) 405-4124

FIRST VICE PRESIDENT

Alice M. Reinche, CMC
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LEGISLATIVE DIRECTOR

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City of San Diego
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Dominic Cortese
Assembly Local Government Committee
State Capitol, Room 2091
Sacramento, CA 95814

Dear Assemblyman Cortese:

The City Clerks Association of California opposes AB2674 (Connelly) as being detrimental to the function of local legislative bodies.

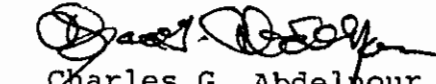
AB2674 proposes numerous amendments to the Brown Act which we believe would limit the ability of City Councils to perform their legislative duties in a timely fashion.

The bill requires an agenda be posted 72 hours prior to a regular meeting of a City Council and would prohibit action on items not on the agenda.

These requirements would eliminate the ability of Councils to act on many routine, non-controversial topics. It would further greatly limit the use of supplemental agendas as a method of speeding the legislative schedule process.

We feel there has been absolutely no need demonstrated for this legislation and request opposition.

Sincerely,


Charles G. Abdelnour
Legislative Director

CGA:JLF:pa32

March 12, 1986

MEMORANDUM

To: Legislative Counsel
From: Mary McMillan, 445-6034
Subject: Amendments to AB 2674 (Connelly) As Amended March 10,
1986

AMENDMENT ONE

On page 3, line 5 after "agenda" strike: "of" and insert:
clearly describing

AMENDMENT TWO

On page 3, lines 20 and 21, strike out "failure to take
action will result in serious harm to the public and that"

AMENDMENT THREE

On page 3, line 22, strike "arose suddenly and unexpectedly
and"

AMENDMENT FOUR

On page 3, line 29, after "legislative body" and insert:
or its standing committee

AMENDMENT FIVE

On page 6, strike out lines 11 and 23, and in line 13, strike
out "taken."

AMENDMENT 6

On page 6, line 16, after "(b)" insert:

Prior to any action being commenced pursuant to subdivision (a), the 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 or 54956. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation. The written demand shall be made within 30 days from the date the action was taken. Within 15 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. Within 15 days after receipt of the written information of the legislative body pursuant to the preceding sentence or 60 days from the date the challenged action was taken, whichever is later, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(c)

AMENDMENT 7

On page 6, line 29, strike out "(c)" and insert:

(e)

AMENDMENT 8

On page 6, after line 36, insert:

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

AMENDMENT 9

On page 6, line 32, strike out "either"

The Circle Preservation Assoc
Rosalind Makuh, Chairperson
869 S.Oak Knoll Ave
Pasadena, CA. 91106

Honorable Lloyd B. Connelly:
State Capitol
Sacramento, California 95814

March 7, 1986

Honorable Lloyd B. Connelly, Assemblyman:

Re: SUPPORT FOR ASSEMBLY BILL 2674. THE CIRCLE PRESERVATION ASSOCIATION OF PASADENA STRONGLY SUPPORTS ASSEMBLY BILL 2674. WE WANT AN END TO SECRET GOVERNMENT ACTIVITIES. OUR REASONS ARE INDICATED BELOW.

Due to a developer's intrusion into Pasadena's historic Oak Knoll neighborhood, with a move on house, The Circle Preservation Association called for Revocation of a Use Permit, granted to the developer, by the city because of deficiencies in the Title to the complete property, upon which the structure was located and developers lack of Title to a neighbors property, the developer was claiming.

For two years, beginning early in 1984 and throughout 1985, our organization the CPA, has documented with tapes and transcripts and the City of Pasadena's compiled Administrative Record, serious abuses regarding the Zoning Department's and the Board of Directors notification procedures. These include, failure to notice by mail within the required radius and within the required time of ten days, use of old or incorrect mailing addresses and names, incorrect posted Zoning notices, or no posting of notices, prior to public hearings. Due to this continuing common practise, the CPA decided to run flyers throughout the neighborhood to make sure everyone attended these meetings.

These examples of failure to notice, effectively misled effected homeowners and excluded, from public meetings, the input, from 7 to 10 homeowners, who were to be directly and adversley effected by this developer's projects. Essentially, a major portion of Oak Knoll Circle homeowners, didn't find out about any public hearings until it was too late for them to be heard and the project was already well under way. Approximately four homeowners not noticed on the South side of Oak Knoll Circle, directly faced the proposed project on the north side of Oak Knoll Circle.

The Board of Directors told the CPA, we should have made our objections known at the very first Public Hearings. Curiously enough, approximately twenty homeowners did strenuously object to the move on house at the first few hearings, without much success! Their objections were very specific. They said the house would not fit on the lot with adequate side and front yards. Plus a city attorney told the developer she did not have good title to the property in question. Both of these issues were subsequently shown to be true and are now part of two lawsuits involving the developer and a directly effected neighbor. However, how

could the entire neighborhood object, if a majority of those effected didn't know anything about the project until the move on had been accomplished?

After the house was moved onto the lot and during the Revocation hearings the failure to notice of public hearings continued. The Board of Directors blamed the problem on the use of old assessors roles for the incorrect notices and incorrect names addresses, even though the CPA was able to prove the assessors roles were up to date and their notices were not. Some names were 10 to 15 years out of date!

The most glaring example of government secrecy also occurred during these Revocation hearings. Mayor William Bogaard, informed our organization that while the hearings were in process and for a period of one month, the Circle Preservation Association members were forbidden to speak to any of the City Board of Directors and city staff, including the Director of our own district William Thomson!

The final result of all this secrecy upon our neighborhood was extremely adverse! The CPA had to engage an attorney to defend our rights and many members spent endless hours working to save our neighborhood. The Board of Directors decided not to revoke the Use Permit because the developer had already spent money to move the house onto the lot and the developer would suffer financial loss if the house was required to be moved. Mayor William Bogaard stated that his decision to allow the house to stay had to do with the ability of the case to withstand judicial review in a court of law. The Board of Directors were not concerned that the house got to the lot, due in part to the failure to notice the neighborhood and because the developer failed to disclose lack of ownership.

The most interesting aspect to all this secrecy is that, the mayor is the Chief attorney for First Interstate Bank, William Thomson is an attorney and the developer is also an attorney. All of whom are fully aware of the laws of this state!

Enclosed please find three articles from the local newspapers that pertain to the secrecy involved in Rose Bowl Concert negotiations.

The first is an article from the Star News of Wednesday, February 19, 1986, that quotes Mayor William Bogaard admonishing city staff for not informing him or the public sooner about plans for the event. He stated " My constituents are saying the manner in which this question has been handled by the staff is a scandal ". I'm astounded the city staff has been drawn into a conspiracy of silence ".

The second article is an editorial from the Star News of Thursday February 20, 1986, that states " It's no coincidence that the two directors whose districts border on the Arroyo, were the only two to withhold blessings from the concert. Mayor William Bogaard, visibly agitated by the secrecy, abstained ". Editor at large Charles Cherniss stated " I won't go as far as Bogaard, who called the mess a scandal and conspiracy of silence, but many questions demand answers ".

The third article is from the Pasadena Weekly February 20-26, 1986, whose headline reads " Board discounts conspiracy of silence charges to let music play at Live Aid II ".

When the Mayor of our city, is quoted in the local newspaper as saying, " I'm astonished the city staff has been drawn into a conspiracy of

silence ". Is there any need for further comment regarding the fact that we need AB 2674, to become law, not only to protect the public but even our own elected officials! When the situation gets this bad, we think it's time to put teeth into the existing law. Please make sure that AB 2674 passes, so that we can have open government here in Pasadena.

Sincerely

Rosalind Makuh

Rosalind Makuh, Chairperson
The Circle Preservation Association

cc: Hon. Charles Calderon
1712 W. Beverly Blvd.
Suite 101
Montebello, CA. 90640

Hon. William Lancaster
362 East Rowlands Ave
Covina, CA. 91723

Hon. Domenic Cortesi,
Local Assembly Govt. Committee
State Capitol, Room 6031
Sacramento, CA. 95814

Mr. Gene Erbin, Committee Consultant
Assembly Sub-Committee on Administration of Justice
State Capitol
Sacramento, CA. 95814

Mr. C. Robert Ferguson, Atty. At Law
301 East Colorado Blvd.
Suite 600
Pasadena, CA. 91101

Mr. Fred Brandt, Atty. At Law
Heistandt & Brandt

c/o 770 Oak Knoll Circle
Pasadena, CA. 91106

Enclosure:

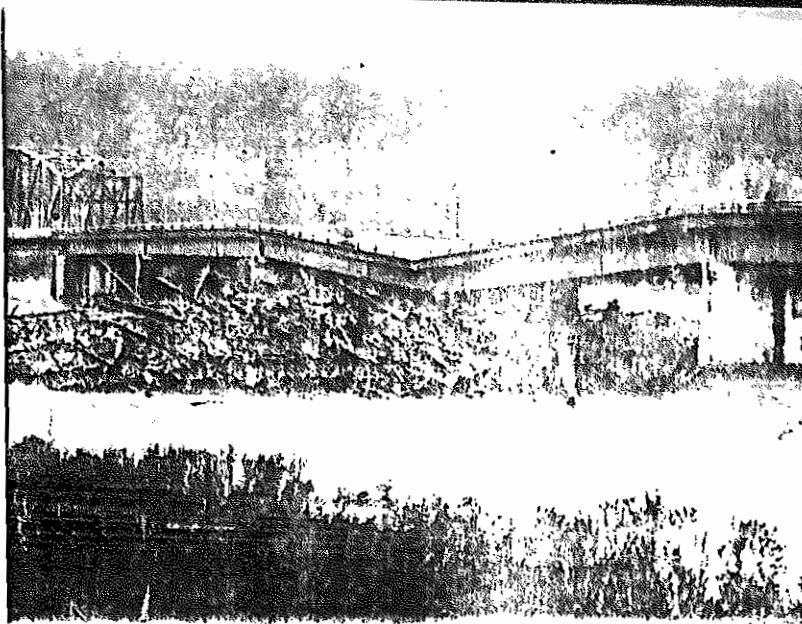
1-Star News Article, Wed. Feb. 19, 1986, City says Rose Bowl can rock.

2-Star News Editorial, Thurs. Feb. 20, 1986
Charles Cherniss, Editor at large
Board's action on rock concert raises questions.

3-Pasadena Weekly, Feb. 20-26, 1986, Rose Bowl will rock to beat of anti-drug show.



g continues — The
 that has paralyzed
 in California hit hard
 Tuesday. Top, the
 River overflowed its
 and stranded the resort
 of Guerneville. Right,
 s engineers examine
 e to the Mudget Memo-
 lge in Eureka, which
 traffic from Highway
 ebris pushed by the
 moving Eel River
 d out two spans. More
 expected this week.



The National Guard, assisted by sheriffs' deputies and the Navy, rescued 500 evacuees stranded in a Guerneville church and 200 others in the area as the Russian River rose to record heights. The American River also neared flood stage.

The National Weather Service, which predicted more rain for today and wet weather through the weekend, posted flash flood warnings in 10 Northern California counties and flash flood watches in 26 others. A flash flood warning means flooding is occurring or imminent.

"The new front came in fairly

Please see STORMS,
 Back Page this section

City says Rose Bowl can rock

By KATHRYN PHILLIPS
 Staff Writer

Despite protests from some neighbors, an 11-hour anti-drug concert for the Rose Bowl is all but guaranteed for April 26.

In a hastily scheduled meeting Tuesday, the Pasadena Board of City Directors agreed to allow Global Media Ltd. to stage the rock concert, which promoters say is endorsed by Nancy Reagan.

The concert, dubbed "The Concert That Counts," is designed to focus attention on the problems of drug abuse and to raise money for drug abuse

education programs, including the Nancy Reagan Drug Abuse Fund, promoters say. Performers are expected to include Madonna, Aretha Franklin, The Pointer Sisters and the Beach Boys.

The board's decision to allow the concert frees the city staff to negotiate a contract with Global Media, which has said it the Rose Bowl is its first choice for the event.

It also followed protests from residents living on the edge of the Arroyo Seco that the concert would be too loud and draw too much traffic and too many peo-

ple to their quiet neighborhood. And it came amid charges from residents and an angry Mayor William Bogaard that the city's handling of the concert decision was swathed in too many layers of secrecy.

"I understand the promoters wanted this to be kept under wraps until Nancy Reagan had a chance to make an announcement. It also seems this underwraps approach was a convenient way to keep the event from coming under public scrutiny."

Please see CONCERT,
 Back Page this section



Enclosure # 1

LEGISLATIVE COMMITTEE ON GOVERNMENT OPERATIONS
 1986-1987



Concert: Directors give OK

Continued from Page A-1

tiny," said resident Cordie Ennis, who lives near the Rose Bowl.

Idelle Cowles, another Arroyo area resident, said the rock concert, which is expected to generate sound levels of about 100 decibels, would harass the neighborhood's residents. She indicated she wasn't impressed with promoter's claims that the First Lady endorses the event.

"Maybe she ought to invite these bands to perform in her front yard," Cowles said.

Michael Jensen, a public relations consultant for Global Media, said the concert "is really important. This is an international media event and we have a wonderful opportunity to be involved in it."

The concert had been discussed earlier this month and in January at meetings of the board's enterprise committee on which directors Jess Hughston, William Thomson and Jo Heckman sit. Promoters told that committee that it did not want public discussion of the concert until late February when an announcement about the event by the First Lady was scheduled.

Repeated calls to the White House have been unable to confirm her involvement in the concert.

Directors John Crowley and Rick Cole and Mayor Bognard did not learn of the concert until last week, shortly before Crowley informed residents neighboring the Rose Bowl about the proposal.

The full board must approve non-sports related events held at the Rose Bowl.

Before abstaining from voting on the issue, Bognard admonished the city staff for not informing him or the public sooner about the plans for the event.

"(My constituents are saying) the manner in which this question has been handled by the staff has been a scandal," he said. "I'm astounded the city staff has been drawn into a conspiracy of silence."

After Tuesday's meeting, City Manager Don Mebertyre said Bognard should have been informed about the proposed event earlier and that it was an oversight that he hadn't been.

Thomson urged the board Tuesday to approve the proposed concert because it is for a good cause and endorsed by the First Lady.

Cole concurred. "I don't see how we can not be swayed by the cause. I think we will be judged that way," Cole said.

City staff estimate the city will earn about \$226,000 from leasing the Rose Bowl for the concert. Tuesday, the board instructed the staff to negotiate with the concert's promoters for additional funds to be earmarked for drug abuse programs in Pasadena.

Rock concerts have not been held in the Rose Bowl since 1982 when the noise and traffic from one resulted in a storm of protest from residents.



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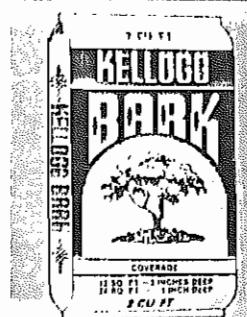
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down the Washington Mall, circle the Washington Monument and land in front of the Smithsonian Air and Space Museum.

The replica is featured in the film which is to be shown on wide-screen Omnimax theaters worldwide. The subject of the film is the relationship between natural and mechanical flight.

Sequences with the mechanical creature were filmed last month at the Race-track Dry Lake and Ubehebe Crater in Death Valley.

Development of the replica began in December 1984, following a meeting between MacCready and Professor Wann Langston, a University of Texas paleontologist.

Langston was involved in the discovery of fossil remains of the largest-known pterodactyl in West Texas in the 1970s. It had a 36-foot wingspan. Initial plans

The looks of MacCready's creature "appear to be in the ballpark," said Langston.

Confronting the unknown has been a lifelong project for MacCready.

He gained international recognition when his "Gossamer Condor" made the first sustained, controlled, human-powered flight in 1977. Two years later, his human-powered "Gossamer Albatross" flew across the English Channel.

But his campaign to build and fly *quetzalcoatus northopi* or "QN-The Time Traveler," the name given to the creature, proved to be the most difficult yet, he said.

"There were a lot of unknowns in the beginning but the unknowns became less and less," MacCready said.

The team performed much of the work at the Monrovia-based AeroVironment,

specialists had to figure how to simulate natural flight with an object larger than the largest-known bird of today.

Computers helped solve the stability problems in the wing, for example, and were built into the mechanism to keep it flying straight.

The wings flap and push forward or pull backward, while the head pivots from side to side, adding control and a realistic appearance. Fake fur adds to the realism.

"The project makes you realize the intricateness of nature," MacCready said. "It took nature millions of years of trial and error. It took the team about one week (of flight) tests."

At best, the replica — despite its being a complicated device — is a crude approximation of the real thing, he said.

"Nature found this a very practical way to fly," MacCready said.

Neither James Butler, the attorney for the Gertmenians, Lowell Ramseyer, the attorney for the hospital, or Kenneth Mueller, the attorney for the doctors named in the lawsuit, would discuss the case with a Star-News reporter.

According to court testimony, the Gertmenians need \$63,000 to make their house safe for Tahleen and close to \$1 million to pay for her care — at times when her family is unable to — until she is 18 years old.

In addition, it will cost \$2.7 million for a 24-hour, live-in aide for her life after she turns 18, said economist Peter Formnis Wednesday. He also testified that she will lose between \$1.1 million and \$1.5 million in wages over the course of her life-

The infant had suffered cardiac arrest, with complications related to high blood sugar.

Afterwards, the infant started having seizures, Gertmenian said.

Gertmenian also said Tahleen at 6-years-old is not toilet trained, cannot understand what people say to her, cannot speak, and screams for long periods.

The child staggers as she walks, often falling, said Gertmenian, a professor of economics at Pepperdine University. As a result, she needs to be watched constantly so she doesn't hurt herself.

Attorneys for the doctors and the hospital are expected to present their side to the jury after the Gertmenians' attorney finishes his presentation.

Enclosure #2

Board's action on rock concert raises questions

The percentages are pretty close. More than 70 percent of Pasadena residents want the city to earn more income off the Rose Bowl — whether that means rock concerts or not. At least that's what those sampled in a survey commissioned by the city said.

To set the record straight at the outset, I've generally backed that consensus as the will of the people.

Tuesday, 71.4 per cent of the City Board, perceiving an urgency not readily apparent to the rest of us, gave the green light to negotiations for an 11-hour April 26 rock concert in the Rose Bowl, featuring many of the world's leading rock stars.

Promoters hope "The Concert That Counts" will raise funds for Nancy Reagan's anti-drug crusade and focus international attention on drug abuse problems. The city hopes to share some of the net for its drug abuse programs and well as hauling in its usual Rose Bowl rental fees.

The worthiness of the cause is



Editor at large
CHARLES CHERNISS

beyond dispute.

Backers claim they promised not to reveal a word until Mrs. Reagan makes the grand announcement on the steps of the White House later this month.

Still, they had to nail down the Rose Bowl as a site. So they went behind closed doors with city staff, directors Bill Thomson, Jess Hughston and Jo Heckman; the latter three acting as the board's enterprise committee. It's legal for less than a majority of the board to huddle privately.

The other directors didn't know what

was being brewed until rumors started splashing off the walls last week.

All this leaves Rose Bowl neighbors, particularly Linda Vistans, and some other Pasadenans in a tizzy for three reasons:

■ Rose Bowl neighbors were promised no rock concerts ever, under any circumstances, after a rash of sickening behavior four years ago.

■ Tuesday's discussion and vote were done on an emergency, non-agenda item basis.

Many bowl neighbors called me Wednesday to complain they had been promised the matter would not be taken up until next Monday's board meeting. Several mailed letters of protest Tuesday, some with multiple signatures. From my experience, they'll be lucky if the board receives that mail by next week.

■ The third objection is a fraternal twin of the second: Why the rush to action after weeks of secrecy?

The secrecy and emergency action

upset other Pasadenans as well, including many who don't object to rock in the bowl. Rightly or wrongly they feel the city slips into this sort of excuse far too often and hasn't learned the lessons of the recent past.

It's no coincidence that the two directors whose districts border on the Arroyo were the only two to withhold blessings from the concert. Mayor William Bogaard, visibly agitated by the secrecy, abstained.

Vice Mayor John Crowley wasn't there. He left for a previously scheduled neighborhood meeting before the vote, but after telling the other directors he was adamantly opposed to the concert.

The other five directors, or 71.4 percent of the board, voted aye. That includes Thomson, Hughston and Heckman plus Loretta Thompson-Glickman and Rick Cole.

I won't go as far as Bogaard, who called the mess "a scandal" and "a

conspiracy of silence," but many questions demand answers.

We also have a textbook example of how district-only elections can tend to disfranchise some districts. For the most part, only Crowley and Bogaard must answer to their constituents near the Rose Bowl.

The other five directors have the power to do as they please with what happens in those two districts.

Crowley has at least one constituent in favor of the concert.

Michael Jensen, raised and educated in Pasadena and a Star-News staffer before defecting to the music industry, is doing the PR for the concert and spoke at the board meeting.

Mike recently moved into a new home — in Linda Vista.

Infiltration or didn't Crowley check Mike's passport?

Editor Charles Cherniss' column appears Tuesday through Friday and on Sunday.

12/26/88 # 3

Rose Bowl will rock to beat of anti-drug show

Board discounts 'conspiracy of silence' charges to let music play at 'Live Aid II'

By Danny Pollock

The Rose Bowl will rock April 26 when an eleven hour concert billed as Live Aid II is staged and broadcast throughout the world in an effort to fight drug abuse.

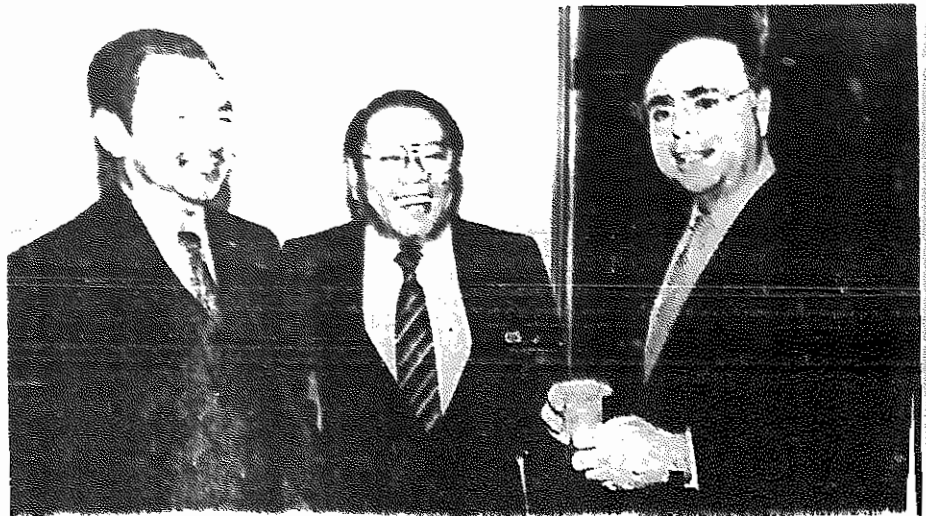
But it was city hall that rocked Tuesday as Mayor Bill Bogaard accused city staff of aiding a "conspiracy of silence" to let the show go on, and residents near the stadium complained that it will cause "monumental" security, noise, and environmental problems.

Nevertheless, five city directors gave the go-ahead to Global Media Ltd. to use the Rose Bowl for the "Concert That Counts." Bogaard abstained from the vote, and Director John Crowley, who represents the area around the stadium, left before the vote was taken. However, before leaving, he concluded that any director who goes against the anti-drug show will be perceived as being "against mother and for sin."

"HAD I STAYED, I would have voted against it," Crowley said Wednesday. "My opposition was based on concerns raised by my constituents." Crowley also raised questions about the hasty manner in which permission was granted. "People had no fair chance to comment," he said. "I was not made aware in any official way until last Thursday."

The strongest objections came from Bogaard, who blasted city staff for "mounting an assault on the way the city does business. My constituents say the manner in which this was handled is a scandal," charged Bogaard. "The first time it came to the attention of the mayor was when I received a call from John Crowley last Thursday. . . . It's a major breach and abuse of our committee system to handle it the way we have."

However, Director Bill Thomson, an outspoken supporter of the proposal, said he is satisfied that due process was followed. The idea was first presented to the city's Public Enterprise Committee last November,



HONORING YOUR HONOR

Indonesian Consul General D. Suwardo, Judge Dickran Tevzizian, and Ben Benniardi, president of Preceptor, got a warm reception at a banquet honoring Tevzizian's recent appointment to the United States District Court at the Linda Vista Armenian Center last Saturday night. Among those in attendance were Archbishop Daniel Sotirian, Primate of the Western Prelate of the Armenian Apostolic Church of America; former Los Angeles County District Attorney Robert Philipposian; Justice Elwood Liu of the California Court of Appeals; Pasadena Mayor Bill Bogaard; and Congressman Carlos Moorhead. Judge Tevzizian, a long time Pasadena resident, formerly was with the law firm of Manatt, Phelps, Rothenberg, Tunney and Phillips.

he said. "Then in January or February there was a meeting in which the committee recommended proceeding," he said, adding that it's "unfortunate" that the mayor was not informed. "Somebody is remiss for not filling him in, but the minutes of all enterprise committee meetings are distributed to board members," said Thomson, who is a member of the enterprise committee along with Directors Jo Heckman and Jess Hughston.

A HALF DOZEN people who live near the Rose Bowl objected to using the site for the concert. One of their main concerns was a 1982 board action that bans rock concerts at the stadium. "This is a rock concert," said Cordie Ennis, president of the Linda Vista Annandale Association. "If the board makes an exception, why can't any group make a request and have a concert?"

In light of a recent ruling by the U.S. Supreme Court involving the Starlight Amphitheater in Burbank, the "ban does not appear legally valid," said Director Rick Cole. However, Bogaard later said the ruling does not interfere with the city's right to regulate concert hours and the manner in which they are staged.

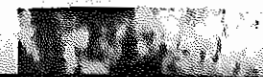
Officials estimate that the city

stands to net about \$200,000 from the show. Thomson's motion to approve use of the stadium suggested that up to 50 percent of that money be directed to anti-drug programs in Pasadena. Director Loretta Thompson Glickman also proposed that the city demand a small percentage of royalties from possible movies, videos, and records produced as a result of the concert. She suggested those royalties also go to city drug-abuse programs.

HOWEVER, CONCERT producers said performers have not yet granted the rights to make movies or records of performances. Tony Verna, the Live Aid producer-director who will perform the same role for the "Concert That Counts," said he "personally has no problem with that." Other producers, however, declined comment.

The concert reportedly has the support of Nancy Reagan, Princess Diana, and rock star Madonna. Producers would not comment Tuesday on who will perform, but reports indicate that Aretha Franklin, The Beach Boys, and George Michael are confirmed, and David Bowie, Mick Jagger, and Michael Jackson have shown strong interest.

Alleged killer 'wanted' to die



LEGISLATIVE INTENT SERVICE (800) 666-1917

and the Ways and Means Subcommittee on Resources and Parks heard from the Legislative Analyst's Office, two of the regional water quality control boards, the State Water Resources Control Board (SWRCB) and local representatives. The committees focused on whether the regional water quality control boards have adequate resources to carry out an effective cleanup program for leaking underground tanks.

Assemblyman Byron Sher stated that the Legislature requested additional funding and personnel years for the boards six times during the past 2 years; however, the Governor vetoed this request each time, stating that it is a local responsibility rather than the state's responsibility.

Testimony received by representatives of three regional quality control boards indicates that they have an inadequate number of personnel to handle all of the underground tank leaks. Therefore, it is unclear as to why the SWRCB has not supported the Legislature's recommendations to augment the Board's budget to cleanup the leaking tanks.

Local representatives also believe it is the state's responsibility to handle the cleanup of underground tank leaks. Some cities and counties may be willing to share this responsibility if adequate funding is provided. However, Mark Kostielney, San Mateo County Environmental Health Director, testified that funding for cleanup should not come out of the county general fund.

11. Brown Act Bill (AB 2674) Amended at CSAC's Request

By MARK WASSER, CSAC Legislative Representative

AB 2674 (Connelly) has been rewritten in response to suggestions made by CSAC. This bill would amend the Brown Act to establish an agenda requirement and to create a "null and void" remedy for actions taken in violation of the Brown Act.

As introduced, the bill proposed very restrictive agenda requirements which would have prevented discussion of items not on the agenda and would have prevented the addition of any items to the agenda after it was posted. CSAC pointed out the need to supplement an agenda to take action on last-minute matters arising after posting of the agenda. The author's office and sponsor have agreed with CSAC's suggestions in this regard and have revised the bill accordingly. In its current form, the agenda language is generally acceptable. However, we may still pursue some minor revisions to specific language.

The most significant problem with the bill remains the section on the "null and void" remedy. The open meeting law applicable to state agencies includes language creating a "null and void" remedy. The existence of this parallel provision in state law makes it somewhat difficult to argue against the inclusion of such a remedy in the Brown Act. Our main concern with this section of the bill has been the uncertainty that it would inject into the governmental decision process. The public is entitled to rely on the finality of government decisions.

If an individual obtains an approval of one sort or another from a board of supervisors, it seems inappropriate that he suffer harsh consequences if that approval is subsequently nullified. Property owners who obtain rezonings or general plan amendments and thereafter incur financial commitments in reliance on those approvals would suffer serious consequences if they could no longer count on the finality of that approval, as given by the board.

Therefore, it seems appropriate that certain exceptions be written into the bill to exempt certain kinds of approvals from the "null and void" remedy. We believe an exemption should be written into the bill to exempt some kinds of land-use approvals. So far, neither the author nor the sponsor are agreeable to that.

We will continue to work on this bill and keep you advised of developments. In light of the revisions that have been made in that past few weeks, we believe it may be possible to support this bill if we can obtain the other necessary amendments.

12. Bond Interest Rate Drops to Lowest Level in Eight Years

By RICHARD BUTRICK, CSAC Deputy Executive Director

Surging optimism over the outlook for lower interest rates have driven long-term interest rates to their lowest levels in nearly eight years.

Analysts credit the near-vertical rise in bond prices to the culmination of a five-year trend toward lower inflation, and continuing rumors that the United States, West Germany, and Japan are planning a concerted cut in key central bank lending rates. Although rumors about foreign discount rate cuts have circulated in the market for some time, falling oil prices and a weaker dollar might soon make the rumors a reality.

Japanese purchases of U.S. bond have been extremely heavy in recent days, as Japanese regulatory authorities seem to have eased further restrictions on the amount of foreign bonds that Japanese investors can buy.

The overall Treasury market yield curve remains positive, although extremely flat. At the close of trading on February 28, yields on 30-year bonds were only 1.06 higher than yields on three-month bills.

The rally in the U.S. market has been accompanied by a continual surge of new corporate debt issues. Investors have snapped up new issues. (Source: The Bond Buyer, Feb. 28, 1986.)

13. ACA 44 Would Provide 'Home Rule' For Counties

By DAN WALL, CSAC Legislative Representative

At CSAC's request, Assemblyman Dominic Cortese has introduced Assembly Constitutional Amendment (ACA) 44 to provide counties with the same "home rule" authority now enjoyed by cities. If passed by the Legislature and adopted by a majority of the people in the state, ACA 44 would essentially re-structure the relationship between state government and California's counties. It would give counties the power, through their charters, to supersede the general laws of the state and take control of "county affairs". This would be analogous to the "municipal affairs" power of cities and would include the ability to raise revenues.

A companion statute, AB 4144, has also been introduced to extend the charter county revenue authority provided in ACA 44 to all general law counties.

Solid support by all supervisors will be necessary to move this bill since county "home rule" efforts have failed in the past. Please contact your legislative representatives regarding your support. Support of county "home rule" may have the added benefit of convincing the legislature that counties do not simply want to be "bailed out" constantly; but that they want the local authority to act in concert with additional state support of counties.

14. Transfer of 1/4 Cent of the State Sales Tax to Counties

By DAN WALL, CSAC Legislative Representative

Assemblyman Cortese has also introduced AB 4043 which would transfer one-fourth cent of the existing state share of the sales and use tax to counties. This would yield about \$600 million of new funds for counties each year.

This measure, the two "home rule" bills mentioned above, and two bills to eliminate the county share of welfare costs comprise Assemblyman Cortese's comprehensive package to bring fiscal stability to counties.

Because of the importance of this measure, unanimous county support is absolutely critical. Please contact your legislators in support of AB 4043 and the other components of Assembly Member Cortese's package.

15. Transactions and Use Tax for San Diego Jails -- AB 3339

By DAN WALL, CSAC Legislative Representative

This afternoon the Assembly Committee on Revenue and Taxation will consider AB 3339 by Assembly Member Bradley. This bill would permit the voters of San Diego County, by a two-thirds vote, to enact a one-half cent transactions and use tax (a sales tax for all practical purposes) which would be dedicated to finance jails and courtrooms.

Mr. Bradley's bill represents an innovative and responsible way of addressing the persistent lack of funding for the tremendous costs associated with constructing county jails and courtrooms. In spite of the fact that AB 3339 does not affect other counties directly, it should be strongly supported in order to provide all counties with this option in the future.

6

Part II/Wednesday, March 5, 1986

Los Angeles Times

County Officials Fear 'Devastation' From Plan to Cut Revenue Sharing

By LOU FINTOR, Times Staff Writer

WASHINGTON—Budget cuts proposed by the Reagan Administration will have a "devastating impact" on many public services, including mass transportation, local medical services and road maintenance, a group of California county supervisors predicted Tuesday.

Under the proposed elimination of the federal revenue sharing program, the metropolitan Los Angeles area stands to be hardest hit of the state's 58 counties. Revenue sharing accounts for more than \$73 million annually, as well as financing for a variety of refugee programs totaling more than \$20 million.

"It is more important than ever that general revenue sharing be preserved as a vital safety net for the provision of these vital public services," said Les Brown, president of the County Supervisors Assn. of California.

An official report on the issue scheduled to be released in the next few weeks cites several other public service programs slated for drastic reductions, said a county official who spoke on condition that he not be named.

One of those programs, Community Development Block Grants, is expected to be reduced from \$34.7

million to \$23.8 million, forcing county leaders to cut or eliminate a variety of services, including low-interest home improvement loans, funds for improving streets and water lines and money given to community service organizations for senior citizen housing, the official said.

Half of the money would be cut directly from county programs and the other half would be cut from aid to cities, said John Shirey, Los Angeles County deputy chief administrator.

Possible Transfers

To deal with the crisis, officials are studying the possibility of transferring budget responsibility to the state or amending existing state legislation that mandates county financial support for indigent health services, general public assistance, child protective services and court and jail maintenance, said Mark Tajima, legislative assistant to Shirey.

"I think you could count on a variety of cuts in all those areas," Shirey said.

Under existing state law, the county finances the nation's second-largest public hospital system, with five major hospitals in the metropolitan area.

"We can't raise revenue, so we have to cut back services," Tajima said. "We're already facing a projected budget shortfall of \$180 million for next year."

Tajima said that a combination of federal cuts also would result in "basically nothing left to fund Metro Rail," the county's mass transportation project. Likewise, cuts would scrap plans to build new sections of San Francisco's BART subway system.

"There is no way in the world we are going to find funds for public transit," Santa Clara County Supervisor Rod Diridon said. "There would be major layoffs, with smaller mass transit systems facing the possibility of shutting down."

The county association's Brown said, "Population continues to soar . . . transportation needs mount daily . . . but now the Administration would pull the rug out from under concerned counties that have struggled to meet transportation needs."

County supervisors vowed to mount a statewide campaign, using public pressure in an attempt to block the proposed cuts. California counties will lose more than \$250 million in annual revenue sharing appropriations Oct. 1, when the program is scheduled to expire.

County Supervisors Association of California

March 6, 1986

The Honorable Robert B. Presley
Senator, State of California
State Capitol, Room 4048
Sacramento, CA 95814

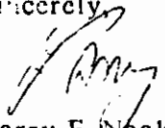
Dear Bob:

Too often we forget to recognize and thank those who dedicate a tremendous amount of time, energy, and talent to a particular cause. I certainly did not want to make such an oversight with respect to your efforts on the jail bond issue on behalf of California counties and our mutual constituents.

There is no doubt that without your leadership and persistence, we would not have been able to place Proposition 52, the \$495 million county jail bond issue, on the June ballot. This was one of the most excruciating and difficult bills to weave its way through the Legislature that I have ever seen. As you well know, there were no end to barriers and obstacles to be overcome at every point along the way. Without your persistence, leadership, and talent for bringing people together, I don't think it would have happened.

On behalf of all the counties in California, I want to extend our appreciation to you. It is also a personally rewarding experience to work with a legislator who is a "cut above the crowd."

Sincerely,


Larry E. Naake
Executive Director

LEN:sgm

cc: Governor George Deukmejian
Senator David Roberti
Members, Riverside County Board of Supervisors
Members, San Bernardino County Board of Supervisors
CSAC Board of Directors
Members, County Caucus



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Amendment to AB 2674

At page 4, line 2, change the period to a comma and add:

" provided, however, the agenda need not provide an opportunity for members of the public to address the legislative body on any such item that already has been considered by a committee 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.

Date of Hearing: March 11, 1986

AB 2674

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
DOMINIC L. CORTESE, Chairman

AB 2674 (Connelly) - As Amended: March 10, 1986

ASSEMBLY ACTIONS:

COMMITTEE _____ L. GOV. _____ VOTE _____ COMMITTEE _____ VOTE _____

Ayes:

Ayes:

Nays:

Nays:

SUBJECT

This bill would modify the Brown Act to require local agencies to post specific agendas 72 hours prior to conducting a meeting; prohibit a legislative body from taking action on items not on the posted agenda; require local agencies to establish regulations to provide the public the opportunity to address the legislative body; and would render actions null and void if the action is determined to be in violation of the Brown Act.

DIGEST

Current law under the Ralph M. Brown Act, requires all meetings of a legislative body of a local agency to be open and public. The law generally requires prior written notification of all regular meetings of a local agency. The Brown Act requires 24-hour notice of meetings and allows for "emergency" meetings without prior notice in certain situations. In addition, current law authorizes all local agencies to establish rules and regulations which allow for greater public access.

This bill would require a 72-hour posting of an agenda prior to a regular meeting of a local agency and prohibits the legislative body from acting on any item not included in the agenda, unless a majority of the legislative body makes a finding that an "emergency" situation exists, or upon a finding by 2/3 vote of the legislative body that failure to take an action would result in serious harm to the public and that the need to take action arose suddenly and unexpectedly and subsequent to the agenda being posted.

Assembly Bill 2674 would specify that a local agency can call a special meeting at any time if a majority of the legislative bodys' membership and the press is notified at least 24-hours prior to the meeting.

- continued -

AB 2674

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This bill would require local agencies subject to the Brown Act to establish regulations which provide the public the opportunity to address the legislative body at each regular meeting.

In addition, AB 2674 would allow any interested person to take action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body or local agency is in violation of the open meetings act and is therefore null and void. Such an action would have to be taken within 30 days from the date of the legislative action. If the legislative body cures or corrects the action it would be dismissed without prejudice.

Under AB 2674 exceptions to the null and void provisions would include actions which involved the sale or issuance of bonds, a contractual agreement, the collection of taxes, or the actions which are determined to have been in "substantial" compliance with the open meetings act.

FISCAL EFFECT

State mandated local program. Potential significant costs for required written, mailed and published notice requirements.

COMMENTS

1. Opponents to Assembly Bill 2674 argue that the measure unnecessarily ties a local agency's hands. It is argued that the "no action" provision would prohibit a governing body from acting promptly. Sometimes, items which are added to an agenda just prior to a meeting are in response to public requests on noncontroversial items like street closings for parades, release of developer's bonds, repair requests, or resolutions honoring citizens.

In addition, opponents believe that the "null and void" provision would have a chilling effect for 30 days on all council actions.

2. Supporters of Assembly Bill 2674 argue that the Brown Act needs "teeth" because local agencies are currently able to skirt the spirit and letter of the law, and thus conduct public business without public participation. AB 2674 would, by requiring the posting of a specific agenda, give the public more advance notice time and afford the public greater opportunities for participation in government decision making.

In addition it has been argued that even when there has been a noted violation of the Brown Act, the action that was the subject of the violation stands. AB 2674 would render these action null and void, thus putting "teeth" into the Brown Act.

- continued -



3. The author has been working with the opponents of AB 2674 in an effort to develop an administrative remedy to violations of the Brown Act. These provision are currently being drafted.
4. The Bagley-Keene Open Meeting Act requires state boards and commission to conduct open meetings and to provide specific agendas in advance. In addition the Legislature operates under specific rules regulating its meeting notices and agendas. The Legislative rules are allowed to be waived without prior public notice when a member desires to move his or her legislation, by approval of a simple majority of members, regardless of the urgency of the issue.

Is there a demonstrated need for local agencies to operate under strengthened public notice requirements and standards?

SUPPORT

League of Women Voters of California
Cal-Tax
Attorney General's Office
California Freedom of Information
Committee
California State PTA

Opposition

City of Manhattan Beach
City of Clearlake
California Association of Sanitation
Agencies
City of Petaluma
City of Cupertino
City of National City
City of San Mateo
City of Coronado
City of Lynwood
City of Pacific Grove
City of Gardena
Los Angeles City Council
City of Vernon
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Town of Paradise
City of Concord
City of Hercules
City of Palm Springs
City of La Mirada
City of Santa Clara
City of El Monte
City of Ridgecrest
City of Lindsay
City of Ceres
City of Norwalk
City of Manteca
City of Culver City

- continued -



City of San Juan Capistrano
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Paradise Irrigation District
City of Barstow



Mary McMillan
445-6034
algov.



Joe A. Gonsalves & Son

PROFESSIONAL LEGISLATIVE REPRESENTATION
PARK EXECUTIVE BLDG • SUITE 205 • 925 L ST • SACRAMENTO, CA 95814-3787 • 916 • 441-0597

MEMO TO: Assembly Local Government Committee

FROM: Joe A. Gonsalves - Anthony D. Gonsalves

REGARDING: AB 2674 (Connelly)

HEARING DATE: Tuesday, March 11, 1986

CLIENTS: Cities of Bellflower, La Mirada and Norwalk

POSITION: OPPOSE

On behalf of our clients, the Cities of Bellflower, La Mirada and Norwalk, we are opposed to AB 2674 regarding open meetings: local agencies.

This bill would prevent City Councils from acting on off-agenda items, and could stop or greatly delay routine City business.

Also, if a decision is unintentionally made in violation of the Brown Act, that decision is rendered null and void. This bill allows thirty days to file a lawsuit to challenge the decision. Validating actions may be required of development approvals. This would bring about unnecessary expense, as well as a delay in projects.

We respectfully urge your no vote.



WE LOVE LOS ANGELES

STATEMENT TO ASSEMBLY LOCAL GOVERNMENT COMMITTEE

Re: AB 2674

Date: March 11, 1986

My name is Barbara Blinderman. I am an attorney in practice in the Los Angeles area. I am here to speak for Not Yet New York (We Love Los Angeles). Not Yet New York, is a non-partisan Los Angeles citizen coalition formed to promote good government and good planning. The Coalition represents homeowner associations, renters, senior citizens, businessmen, and city planners.

AB 2674 is an important bill to us because we believe that open government is a prerequisite to good government and that the Ralph M. Brown Act is desperately in need of the amendments introduced by Assemblymen Connelly and Johnson.

Since we began our campaign to support the efforts to enact AB 2674 into law, we have been receiving examples of the kind of abuses the provisions of this bill will help to eliminate.

Item: Cultural Heritage action in Pasadena. No agenda. No time or place designation of formal meeting. An interested citizen, hearing of a matter to be considered, rushes to City Hall, finds a locked door, and pounds on it, seeking entry. She is admitted, and the door locked behind her. Other interested citizens follow the same pattern, and the door is locked again.

AB 2674, by requiring prior notice including time and place, would prohibit local legislature bodies from holding these kinds of meetings.

Item: Meeting of a Los Angeles Community Redevelopment Agency Committee. Public not admitted. Items are approved then placed on a consent agenda before the full C.L.A. Board, with



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neither discussion nor public comment allowed. AB 2674 would provide the opportunity for members of the public to address local governing bodies and would prevent this kind of evasion of public input.

Item: City of Los Angeles Consideration of action that would permit demolition of existing homes. 6:00 P.M. At a meeting of a Council Committee, an item is introduced, approved, and placed on the next morning's calendar for action by the full City Council. Justification for the action? Political hot potato. AB 2674 would prevent the City Council from taking precipitous action by requiring the posting of an agenda 72 hours in advance.

Item: City of Thousand Oaks. Regular meeting agendaed, with time and place specified. Prior to the formal meeting, the City Council caucuses in a small room adjacent to Council chambers, to discuss the agenda. The fact and place of the caucus is noticed. An interested citizen, only somewhat intimidated, enters the caucus room. Discussion stops -- then continues in a restrained manner. The citizen believes that the tone of the caucus is changed by his entry. He wonders what they were saying before he came in. AB 2674 could discourage such intimate meetings by requiring the prior posting of time and place of items to be considered.

Item: February 14, 1986, Consideration of AB 2674 by the Los Angeles City Council. The item is posted on the morning of its consideration on an "Additional Agenda." No public input is solicited or heard. The Council directs its Sacramento lobbyist to oppose AB 2674. Because there was no emergency, and no dire public need for immediate action, the Council could not have acted if AB 2674 had been in effect.

Subsequent to the Council's action, representatives of Not Yet New York solicited the support of individual Council members and asked them to reconsider their opposition. We pointed out that the City's major objections to the bill had been addressed in the February 28 amendment. Specifically, the bill, as revised, permits local legislatures to adopt reasonable regulations to control public testimony. It provides reasonable exceptions to the prior notice requirement. And it imposes reasonable limits on the remedy of voiding actions taken in violation of its provisions in the case, for example, of contracts, and the sale or issuance of notes and bonds.

We have to date received favorable written comment from one Councilman, Hon. Marvin Braude, who states,

"I support the majority of the Connelly bill, particularly as it relates to agenda notice."



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In supporting the need for advance notice, he pointed out, that when items are brought in without notice -

"Not only does the public not have a legitimate chance to react, become familiar with, and comment, but very likely the Council members themselves are faced with the same problem."

Mr. Braude's concerns were with need for "a very limited ability to suspend the rules of notice" where there is a "real need for Council to react to an emergency in a legitimate need for urgency." He further felt the need to impose reasonable restraints on public testimony. I have a copy of the letter, if you so request.

We have not as yet received further response. When we canvassed Council offices last Friday, we discovered that most of the Councilmen were on their way to Washington, D.C. We did receive assurances, however, from at least four other Council offices (Picus, Wachs, Bernardi, and Bernson), that those officials have historically supported open government and that they would seriously review the amendments to AB 2674.

We hope the City Council will come around. Events of last week, however, suggest that despite their protestations of commitment to open government it will take action by the State legislature to correct the abuse.

The following article, from the Daily News, dated March 9, 1986, explains better than anything else why your approval of AB 2674 is necessary.

I quote:

"When Los Angeles City Council members got caught last summer sneaking through a pay raise for themselves via a last-minute addition to their agenda, some state legislators started pushing for advance notice requirements.

After last week's rush of last minute addition, the push in the state legislature could come to shove in favor of a tough new law requiring 72 hours advance notice of items to be considered in public meetings.

City officials have said it was unrealistic to require that agendas be printed three days ahead of time in a city the size of Los Angeles where major emergencies can require immediate action. Besides, council members claimed, they had cleaned up their act to at least provide full public disclosure of last-minute items.



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But that claim was in tatters last week when council members rushed frantically to get major business out of the way so they could fly off to Washington, D.C.

After completing their Tuesday calendar, the council raced through seven last-minute additions, most of which were anything but routine. During one hectic 10-minute period the council started assessment proceedings in the Bryant-Vanalden area in Northridge, took sides in a lawsuit over condors, extended a private law firm's contract for cable television litigation and supported \$65 million in tax-exempt financing for the Coliseum.

There was no way the press or public could know the items were coming up. Some were still being distributed as roll calls were taken. Some had been scrawled out by hand and reproduced on the copying machine in the next room.

Even career bureaucrats had a tough time keeping up with the council action.

'I used to think I had a good handle on what the council was doing,' said one top city financial adviser. 'But now they have completely lost me.'

AB 2674 is a good bill. We are here to solicit your support.

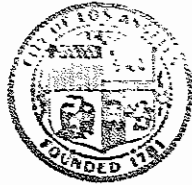
Thank you for listening.



City Hall
Los Angeles, CA 90012
(213) 485-3611

Valley Office
18425 Burbank Boulevard
(818) 989-8150

West Los Angeles Office
1645 Corinth Avenue
(213) 312-8461



City Council Committees
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Vice-Chairman, Public Health,
Human Resources & Senior Citizens
Member, Personnel & Labor Relations

Member, Santa Monica Mountains
National Recreation Area
Advisory Commission
Member, South Coast Air Quality
Management District Board

Marvin Braude
Councilman

Ms. Barbara Blinderman
Attorney-at-Law
315 So. Beverly Drive, Suite 406
Beverly Hills, CA 90212

February 28, 1986

Dear Barbara:

I am happy to write a letter concerning my views on AB 2674. Not only do I concur with you but I have already raised the issue among my colleagues. In fact, I am also sharing with you a letter I submitted to Councilwoman Joan Flores last October regarding an item that I requested be discussed in the Rules Committee of the City Council. The number one concern I have had regarding the rules governing the City Council is the number of "specials" brought in without notice. Not only does the public not have a legitimate chance to react, become familiar with and comment, but very likely the Council members themselves are faced with the same problem.

In concept, I support the majority of the Connelly bill, particularly as it relates to agenda notice. My only concern with this section is that a very limited ability to suspend the rules of notice needs to be retained when there is a specific and real need for Council to react to an emergency or a legitimate need for urgency. Such an item might be the request to the Mayor and Governor to declare a disaster area after some major problem of flood, fire, etc. has occurred. Other examples are: time limit situations; applications for federal funds where all that is authorized is making a request and the matter will return to the Council later; interest running on a court judgment; and street closings for special events (e.g. 4th of July at neighborhood cul-de-sac for three hours, etc).

The public input portion of the bill, I feel, requires some time limit restraint. I am not questioning the right of the public to speak and address the Council on issues, but there must be an reasonable allotment of time in which this occurs. Councilmembers, for example, even limit themselves to five-minute segments to speak on issues before it is someone else's turn to speak.



With amendments such as these, I believe the Connelly bill provides a reasonable mechanism for controlling public access and availability to the City Council.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maxim".

KNBC EDITORIAL

KEEPING LOCAL GOVERNMENT OPEN

There's something incomplete about state government passing laws telling local levels how to hold open meetings.

The state, after all, has its own ways of making dark, back-room deals.

Still, somebody has to keep cities, counties, school and special districts open to the taxpayers, and that somebody might as well be the state. State lawmakers certainly know all the tricks.

What tricks? The slickest trick is acting on some controversial matter before anyone notices. Some cities have been known to vote council members big pay raises that way. And that's also how to make zone changes neighbors won't like.

All that would be outlawed under legislation moving through Sacramento. All agenda items would have to be posted 72 hours in advance, except for fires, floods or other defined emergencies.

The penalty would be that any action taken without proper notice would be null and void.

Good.

Now all we need is some way to keep Sacramento open, too.

#B-301

Broadcast times: 3/6-6:28PM; 3/6-Signoff; 3/7-6:27AM

Time: 1:00

STATE OF CALIFORNIA
Supreme Court of California

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Supreme Court of California

Case Name: **DALY v. BOARD OF SUPERVISORS OF SAN BERNARDINO COUNTY**

Case Number: **S260209**

Lower Court Case Number: **E073730**

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Filing Type	Document Title
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REQUEST FOR JUDICIAL NOTICE	Motion for Judicial Notice 9.15.20
ADDITIONAL DOCUMENTS	RFJN Exhs Vol 1
ADDITIONAL DOCUMENTS	RFJN Exhs Vol 2
ADDITIONAL DOCUMENTS	RFJN Exhs Vol 3
ADDITIONAL DOCUMENTS	RFJN Exhs Vol 4
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Stacey Leyton Altshuler Berzon, LLP	sleyton@altshulerberzon.com	e-Serve	9/15/2020 2:02:43 PM
Glenn Rothner Rothner, Segall & Greenstone 67353	grothner@rsglabor.com	e-Serve	9/15/2020 2:02:43 PM
Matthew Nazareth Meyers, Nave, Riback, Silver & Wilson 278405	mnazareth@meyersnave.com	e-Serve	9/15/2020 2:02:43 PM
William Donovan McDermott Will & Emery LLP 155881	wdonovan@mwe.com	e-Serve	9/15/2020 2:02:43 PM
Ted Burke MEYERS, NAVE, RIBACK, SILVER & WILSON 247049	tsburke@meyersnave.com	e-Serve	9/15/2020 2:02:43 PM

Deborah Fox Meyers, Nave, Riback, Silver & Wilson 110929	dfox@meyersnave.com	e-Serve	9/15/2020 2:02:43 PM
Stephanie Safdi County of Santa Clara County Counsel's Office 310517	stephanie.safdi@cco.sccgov.org	e-Serve	9/15/2020 2:02:43 PM
Meghan Herbert Altshuler Berzon LLP	mherbert@altber.com	e-Serve	9/15/2020 2:02:43 PM
Kathy Glass Meyers Nave	kglass@meyersnave.com	e-Serve	9/15/2020 2:02:43 PM
Penelope Alexander-Kelley Office of the County Counsel	palexander-kelley@cc.sbcounty.gov	e-Serve	9/15/2020 2:02:43 PM
Stacey Leyton Altshuler Berzon LLP 203827	sleyton@altber.com	e-Serve	9/15/2020 2:02:43 PM

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9/15/2020

Date

/s/Kathy Glass

Signature

Fox, Deborah (110929)

Last Name, First Name (PNum)

Meyers, Nave, Riback, Silver & Wilson

Law Firm