**CASE NO. S260209**

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

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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,*

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

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# EXHIBITS TO APPELLANTS' MOTION FOR JUDICIAL NOTICE

**VOLUME II OF VI, PAGES 296 – 593 OF 1653**

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3586805.1

# EXHIBIT F

WAYS AND MEANS COMMITTEE ANALYSIS

Author: Connelly | Amended: 3/18/86 | Bill No.: AB 2674

Policy Committee: Local Government | Vote: 8 - 0

---

Urgency: No | Hearing Date: 04/09/86

State Mandated Local Program: Yes | Staff Comments by:

Disclaimed: No | Judi Smith

---

JS/khm

# EXHIBIT G

Recommendations:

Do pass - consent. Mandated costs would be less than $150,000 per year.

JS/khm



WAYS AND MEANS COMMITTEE ANALYSIS

Author: Connelly | Amended: 3/18/86 | Bill No.: AB 2674

Policy Committee: Local Government | Vote: 8 - 0

---

Urgency: No | Hearing Date: 04/09/86

State Mandated Local Program: Yes | Staff Comments by:

Disclaimed: No | Judi Smith Judi

---

JS/khm

Legislative Analyst
April 8, 1986

ANALYSIS OF ASSEMBLY BILL NO. 2674 (Connelly)
As Amended in Assembly March 18, 1986
1985-86 Session

AB 2674 (Am. 3/18/86)

Fiscal Effect:

Cost: Mandated Local Program. Unknown costs, probably less than $25,000, for local legislative bodies to comply with notification and public testimony requirements; potentially state-reimbursable.

Revenue: None.

Analysis:

This bill revises provisions of the Ralph M. Brown Act, relating to deliberations and actions of local legislative bodies. Specifically, the bill:

- Requires local legislative bodies to post an agenda clearly describing all items of business to be taken up or discussed at least 72 hours prior to each regular meeting, and at least 24 hours prior to any special meeting.

- Prohibits local legislative bodies from taking action on any item not included in the posted agenda, unless the legislative body finds (a) by majority vote that an emergency exists, or (b) by a two-thirds vote that the need to take action on an item arose after the posting of the agenda.

- Requires local legislative bodies to provide an opportunity for members of the public to directly address the legislative body on items of public interest at all regularly scheduled meetings, and requires the

legislative body to adopt regulations to ensure that this requirement is met.

Under existing provisions of the Brown Act, local legislative bodies are generally required to conduct their deliberations and public business in open meetings. Current law also allows interested parties to commence legal action to stop or prevent violations or threatened violations of the Brown Act. As construed by the courts, however, any action already taken at a meeting in violation of the Brown Act is nonetheless valid. This bill authorizes persons to commence legal actions which seek to have such actions determined to be null and void.

Fiscal Effect

The bill would have no effect on state costs or revenues.

Mandated Local Program. The bill would create a state-mandated local program by requiring local legislative bodies to post notification of the time, location and items to be considered at all regular and special meetings, and to adopt regulations ensuring that opportunity is provided to members of the public to address the legislative body on matters of public concern at each regular meeting. These requirements could result in unknown costs, probably less than $25,000, to local agencies. Any increased costs resulting from these requirements would be potentially state-reimbursable.

11/s1

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 -

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 | San Mateo County Council of Mayors |
| California Society of Newspaper Editors | City and County of San Francisco |
| | City of San Luis Obispo |
| | City of Bradbury |



Mary McMillan
445-6034.
algov.

Recommendation:

Do pass - consent. Mandated costs would be less than $150,000 per year.

JS/khm

# EXHIBIT H

AP 8-0
Lancaster (NV)
Bradley, Frazee, Rogers (aye)

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.

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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 -

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 | San Mateo County Council of Mayors |
| California Society of Newspaper Editors | City and County of San Francisco |
| | City of San Luis Obispo |
| | City of Bradbury |



Mary McMillan
445-6034.
algov.

Honorable Lloyd Connelly
Member of the Assembly
State Capitol, Room 2179
Sacramento, CA 95814

DEPARTMENT: Finance | AUTHOR: Connelly | BILL NUMBER: AB 3888

SPONSORED BY | RELATED BILLS | AMENDMENT DATE: March 18, 1986

**BILL SUMMARY**

This bill revises local agency open meeting requirements.

**FISCAL SUMMARY--STATE LEVEL**

| Code/Department Agency or Revenue Type | SO LA CO RY | (Fiscal Impact by Fiscal Year) (Dollars in Thousands) FC 1985-86 | FC 1986-87 | FC 1987-88 | Code Fund |
|---|---|---|---|---|---|
| 8885--Commission on State Mandates | LA | -- | S $1 | $2 | 360 State Mandates Claims |

**FISCAL SUMMARY--LOCAL LEVEL**

| | 1985-86 | 1986-87 | 1987-88 |
|---|---|---|---|
| Reimbursable Expenditures | -- | $1 | $2 |
| Non-Reimbursable Expenditures | -- | -- | -- |
| Revenues | -- | -- | -- |

**ANALYSIS**

A. Specific Findings

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 the existing law, the legislative body of a local agency is not required to post a specific agenda 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, as specified.

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 the legislative body to adopt reasonable regulations, as specified.

(Continued)

POSITION: Department Director

Neutral, recommend technical amendment.

Date

| Principal Analyst (621) | Date | Program Budget Manager | Date | Governor's Office |
|---|---|---|---|---|
| [signature] | 4/7/86 | [signature] | 4-7-86 | Position noted / Position approved / Position disapproved |
| | | | | by: date: |

LB:0413A-1

BILL ANALYSIS--(continued) Form BF-43

AUTHOR | AMENDMENT DATE | BILL NUMBER

Connelly | March 19 | 1974

ANALYSIS

A. Specific Findings (Continued)

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.

Existing law defines the term "actions 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 to determine if certain actions taken by the local agency are null and void. 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.

Existing law authorizes a court 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 above.

B. Fiscal Analysis

There are no direct State costs to any State agency in this bill. The attached "Local Cost Estimate" finds that there would be minor reimbursable state-mandated local costs which can be paid from the State Mandates Claims Fund. Although the language in Section 6 directs that reimbursement be made from that Fund, we believe that it is technically deficient and recommend that a technical amendment be made. Suggested amendments are attached.

LR:0413A-2

**Proposed amendment**

**AB 2674**

**As amended March 18, 1986**

On page 8, strike line 2 through 9, inclusive, and insert:

Sec. 6. The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, 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.

LR:0413A-3

Form DF-43R (Rev. 1/86 W 500)

| Local Cost ESTIMATE Department of Finance | NO. 1 ISSUE DATE APR 07 1986 | BILL NUMBER AB 2674 |
|---|---|---|
| | AUTHOR Connelly | DATE LAST AMENDED March 18, 1986 |

I. SUMMARY OF LOCAL IMPACT:

Revises open meeting requirements.

II. FISCAL SUMMARY--LOCAL LEVEL

| | 1985-86 | 1986-87 (Dollars In Thousands) | 1987-88 |
|---|---|---|---|
| Reimbursable Expenditures: | -- | $1 | $2 |
| Non-Reimbursable Expenditures: | -- | -- | -- |
| Revenues: | -- | -- | -- |

III. ANALYSIS:

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 the existing law, the legislative body of a local agency is not required to post a specific agenda 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, as specified.

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 permit the legislative body to adopt reasonable regulations as specified.

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.

Existing law defines the term "actions 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, to determine if certain actions taken by the local agency are null and void.

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.

(continued)

| PREPARED | Date | * REVIEWED | Date | * APPROVED | Date |
|---|---|---|---|---|---|
| LR-0421A-1 | | * | 4/7/86 | * | 4-7-86 |

| AUTHOR | DATE LAST AMENDED | BILL NUMBER |
|---|---|---|
| Connelly | March 18, 1986 | AB 2874 |

LEGISLATIVE ANALYSIS (continued)

Existing law authorizes a court 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 above.

Sections 17579 and 17610 of the Government Code allow the Controller to reimburse local entities from the State Mandates Claims Fund for the state-mandated local costs imposed on them by a statute if:

a. the statute contains a statement that it mandates a new program or higher level of service and specifies that reimbursement shall be made from the State Mandates Claims Fund if the statewide cost of the statute in the first year of its operation is less than $500,000; and

b. the Commission on State Mandates develops parameters and guidelines for reimbursement of costs and certifies to the Controller that the costs are estimated to be less than $500,000.

If enacted, this bill would result in minor additional costs. Since these estimated costs are well within the $500,000 ceiling on reimbursements from the State Mandates Claims Fund, the payment of those costs from that Fund would be appropriate. Although the language in Section 6 of the bill indicates a willingness to make those payments in that fashion, we believe that it is technically deficient because it does not contain a specific acknowledgement that the bill is a state mandate. The following language would be technically more appropriate:

> The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, 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.

LR:0421A-2

ASSEMBLY WAYS AND MEANS COMMITTEE
REPUBLICAN ANALYSIS

AB 2674 (Connelly) -- OPEN MEETINGS:LOCAL AGENCIES
Version: 3/18/86 Vice-Chairman: Bill Baker
Recommendation:
Vote: Majority

Summary: Amends the Ralph M. Brown Open Meeting Act to 1) require the legislative body of a local agency to post a specific agenda clearly describing items of business to be transacted/ discussed a) 72 hours before a regular meeting or, b) 24 hours before a special meeting; 2) prohibit a legislative body from taking action on items not on the posted agenda; 3) allow interested persons (within the time frame described below) to commence action to declare actions, deemed to be in violation of the Brown Act, "null and void"; 4) a legislative body, notified of possible violation(s) of the Brown Act, may correct their action(s) before a suit is filed and any cure of possible violation(s) shall not be construed that an actual violation took place, 5) authorize the award of reasonable attorneys fees in "null and void" law suits. Fiscal effect: Minority fiscal staff believes there are unknown, possibly significant, state costs for reimbursement of "reasonable attorneys fees", court costs and for required mailed and published notices. The Leg. Analyst and Dept. of Finance do not.

Supported by: Cal-Tax, Attorney General's office, CA District Attorneys Assn., Counties of L.A., Alameda, San Joaquin, PORAC, Sierra Club, Schools Legal Services (80 school agencies), League of Women Voters, CA State PTA, CA State Freedom of Information Committee, CA Grocers Assn., CA Society of Newspaper Editors. Opposed by: League of Cities, Assoc. of CA Water Agencies, CA Assn. of Sanitation Agencies, Cities of L.A. and 33 others, San Mateo County Council of Mayors. Governor's position: None.

Comments: Introduced in response to a vote of the Los Angeles City Council on an agenda item #53, later revealed as a salary increase for the council and other city officers. Proponents state that, although the Brown Act has enforcement/ penalties related to behind-the-scenes meetings, the Act has no teeth regarding (unannounced) special agenda items. The bill, therefore, sets open parameters to require local bodies 1) to post/circulate written meeting agendas, 2) to add agenda items (majority vote to add emergency items and 2/3 vote to add unexpected items). Public concerns, regarding conformance of local agency actions to the Brown Act, may be raised to

declare the action "null and void" in the following manner: a) written request must be made for the agency to correct/cure it actions within 30 days of the action, b) agency must correct/cure its actions or respond in writing of its decision not to cure within 15 days of public request, c) no legal action may be taken later than 60 days from the date the challenged action was taken.

Opponents claim that the 30 day "null and void" period would create a cloud over all actions taken by local agencies and would delay enacting these actions for 30 days. Exceptions to the null and void provisions would include actions which involve 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 Act. The League of Cities state the bill would allow the public to add agenda items after the agenda has been set which would cause council's/staff's workload to be greatly burdened. The state mandated cost is also at issue and it is unclear whether the local body may seek to be reimbursed for costs of court settlements in addition to costs of carrying out the agenda mandates. **The members may consider requesting clarifying language regarding reimbursable state mandated costs under this bill.**

Assembly Republican Committee Vote
Local Government -- 4/1/86
(8-0) Ayes: Bradley, Frazee, Rogers
Noes:
NV.: Lancaster
Consultants: Morgan/Stevenson

Legislative Analyst
April 8, 1986

ANALYSIS OF ASSEMBLY BILL NO. 2674 (Connelly)
As Amended in Assembly March 18, 1986
1985-86 Session

AB 2674 (Am. 3/18/86)

Fiscal Effect:

Cost: Mandated Local Program. Unknown costs, probably less than $25,000, for local legislative bodies to comply with notification and public testimony requirements; potentially state-reimbursable.

Revenue: None.

Analysis:

This bill revises provisions of the Ralph M. Brown Act, relating to deliberations and actions of local legislative bodies. Specifically, the bill:

- Requires local legislative bodies to post an agenda clearly describing all items of business to be taken up or discussed at least 72 hours prior to each regular meeting, and at least 24 hours prior to any special meeting.

- Prohibits local legislative bodies from taking action on any item not included in the posted agenda, unless the legislative body finds (a) by majority vote that an emergency exists, or (b) by a two-thirds vote that the need to take action on an item arose after the posting of the agenda.

- Requires local legislative bodies to provide an opportunity for members of the public to directly address the legislative body on items of public interest at all regularly scheduled meetings, and requires the

legislative body to adopt regulations to ensure that this requirement is met.

Under existing provisions of the Brown Act, local legislative bodies are generally required to conduct their deliberations and public business in open meetings. Current law also allows interested parties to commence legal action to stop or prevent violations or threatened violations of the Brown Act. As construed by the courts, however, any action already taken at a meeting in violation of the Brown Act is nonetheless valid. This bill authorizes persons to commence legal actions which seek to have such actions determined to be null and void.

Fiscal Effect

The bill would have no effect on state costs or revenues.

Mandated Local Program. The bill would create a state-mandated local program by requiring local legislative bodies to post notification of the time, location and items to be considered at all regular and special meetings, and to adopt regulations ensuring that opportunity is provided to members of the public to address the legislative body on matters of public concern at each regular meeting. These requirements could result in unknown costs, probably less than $25,000, to local agencies. Any increased costs resulting from these requirements would be potentially state-reimbursable.

11/s1

# EXHIBIT I

ASSEMBLY THIRD READING

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

ASSEMBLY ACTIONS:

| COMMITTEE | L. GOV. | VOTE | 8-0 | COMMITTEE | W. & M. | VOTE | 20-1 |
|---|---|---|---|---|---|---|---|
| Ayes: | | | | Ayes: | Vasconcellos, Baker, Agnos, Bader, Bronzan, D. Brown, Campbell, Connelly, Eaves, Herger, Hill, Johnson, Leonard, Lewis, Margolin, McClintock, O'Connell, Peace, Roos, M. Waters | | |
| Nays: | | | | Nays: | Isenberg | | |

DIGEST

Current law, 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:

1) Requires posting of an agenda 72 hours prior to a regular meeting of a local agency. It 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 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) Specifies 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) Requires 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.

- continued -

4) Allows 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.

FISCAL EFFECT

State mandated local program. Unknown but, probably minor costs for required written, mailed and published notice requirements; potentially state reimbursable.

COMMENTS

1) Opponents of this bill 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 the bill 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. The bill would, by requiring the posting of a specific agenda, give the public more advance notice and increased opportunities for participation in government decisionmaking.

   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. This bill renders these action null and void, thus putting "teeth" into the Brown Act.

3) The Bagley-Keene Open Meeting Act requires state boards and commissions to conduct open meetings and to provide specific agendas in advance. In addition, the Legislature operates under specific rules regulating its

- continued -

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
4/14/86:algov

# EXHIBIT J

# BILL ANALYSIS — YOUTH AND ADULT CORRECTIONAL AGENC

| DEPARTMENT | AUTHOR | BILL NO. |
|---|---|---|
| Youthful Offender Parole Board | Lloyd Connelly | AB 2674 |
| **SPONSORED BY** | **RELATED BILLS** | **DATE LAST AMENDED** |
| Author | None | Original |

BILL SUMMARY

This bill is directed toward actions of legislative bodies of local agencies. It requires the posting of agenda, notice to the public, and if a meeting is closed to the public, a statement citing the legal authority for such a closed session.

BACKGROUND

These admendments relate to existing legislation known as the Ralph M. Brown Act. This Act covers meetings open to the public conducted by local agencies.

Local agencies is defined under Section 54951 of the Government Code and reads as follows: "As used in this chapter, 'local agency' means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision or any board, commission or agency thereof, or other local public agency.

The Bagley-Keene Open Meeting Act governs state bodies. It is defined under Section 11211 of the Government Code as follows: "As used in this article 'state body' means every state board or commission or similar multi-member body of the state which is required by law to conduct official meetings and every commission created by executive order, but does not include:

(a) State agencies provided for in Article VI of the California Constitution.
(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of this code.
(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Greensky-Burton Open Meeting Act , Section 9027 et seq., of this code.
(d) State agencies when they are conducting proceedings pursuant to Section 3596 of this code.
(e) State agencies provided for in Section 1702 of the Health and Safety Code, except as provided in Section 1720 of the Health and Safety Code.
(f) State agencies provided for in Section 11770.5 of the Insurance Code.



| POSITION | Governor's Office Use |
|---|---|
| Neutral | Position noted |
| | Position approved |
| | Position disapproved |

| | DATE | AGENCY SECRETARY | DATE |
|---|---|---|---|
| Welby A. Cramer, Chairman<br>Youthful Offender Parole Board<br>Welby A. Cramer | 3/20/86 | MAR 0 | |

LIS - 9a BY STEPHEN BLA

ARC-1

IMPACT OF BILL

Assemblyman Lloyd Connelly's Bill AB 2674 has no impact on the Youthful Offender Parole Board. This Board is covered by the Bagley-Keene Open Meeting Act.

RECOMMENDED POSITION

Neutral



ARC-2

AB 2674



ACWA

February 13, 1986

The Honorable Lloyd Connelly
California State Assembly
State Capitol
Sacramento, California 95814

Re: Assembly Bill 2674

Dear Assemblyman Connelly:

This is to express our opposition to your Assembly Bill 2674, which makes several changes in the Ralph M. Brown Act. Several of these changes could greatly interfere with the orderly conduct of the public's business and impede the provision of necessary services.

We generally concur with the comments forwarded to you by the League of California Cities and would appreciate the opportunity to discuss our problems with you at your convenience.

Sincerely,

Louis B. Allen
Assistant Executive Director

LBA:DH

cc: Assembly Committee on Local Government
County Supervisors Association of California
California Special Districts Association
California Association of Sanitation Agencies
California Municipal Utilities Association
League of California Cities

ASSOCIATION OF CALIFORNIA WATER AGENCIES

*a non-profit corporation since 1910*

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



75th ANNIVERSARY

ARC-3

AB 2674

Cal-Tax
CALIFORNIA TAXPAYERS' ASSOCIATION
SUITE 800 · 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



ARC-4

ORIGINAL FILED

NOV0 4 1985

COUNTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

| | |
|---|---|
| DOROTHY GREEN, Taxpayer and Voter,<br><br>Petitioner/Plaintiff,<br><br>vs.<br><br>CITY OF LOS ANGELES, LOS ANGELES CITY COUNCIL, and JAMES HAHN, AS CONTROLLER OF THE CITY OF LOS ANGELES,<br><br>Respondents/Defendants. | Case No. C 554145<br><br>STATEMENT OF INTENDED DECISION |

After a review of the evidence presented on October 28, 1985, and further argument and a reading of the briefs, the Court finds and rules as is further stated in this intended decision.

FACTS

On June 5, 1985, by unanimous vote of the twelve (12) members present (Messrs, Bernson, Braude, Cunningham, Farrell, Ferraro, Flores, Lindsay, Snyder, Stevenson, Wachs, Yaroslavsky, and President Russell), the City Council voted to approve an ordinance, designated Ordinance No. 159926, increasing by 10 percent the salaries of the Mayor, the City



ARC-5

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

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

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

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.

ARC-7

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

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

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

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

DISCUSSION

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

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

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

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

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

The City Council complied with its procedural rules.

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

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

Twelve votes were cast to suspend the rules although only 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.

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ARC-10

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

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

Suspension

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

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

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ARC-11

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

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

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

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76T576T- PS 12-84

ARC-12

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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ARC-13

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





76T576T - PS 12-84

ARC-14

AB 2674

JOHN K. VAN DE KAMP
Attorney General



State of California
DEPARTMENT OF JUSTICE

1515 K STREET, SUIT
SACRAMENTO
(916) 445

Toll Free – California
800-952

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



ARC-15

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



ARC-16

State of California—Health and Welfare Agency

Department of Mental Health

BILL ANALYSIS

MH 35 (7/81)

| Department | Author | Bill Number |
|---|---|---|
| Mental Health | Connelly | AB 2674 |
| Sponsored By Common Cause/League of Women Voters | Related Bills | Date Last Amended March 18, 1986 |

Summary

## SUMMARY

AB 2674 relates to the Ralph M. Brown Act governing meetings of local agencies. The bill would strengthen the provisions of these statutes by making changes to the type of information given to the public in advance, by mandating time for the public to address the bodies in question, and by adding sanctions for violation of the statutes.

## LEGISLATIVE BACKGROUND

AB 2674 is co-sponsored by Common Cause and the League of Women Voters. A bill dealing with the "null and void" provisions of the law was passed in 1961 and vetoed by then Governor Pat Brown, however this bill is substantially different.

## PROGRAM BACKGROUND

Although this bill does not affect any portion of the Department directly, the local mental health advisory boards which advise each county mental health department are affected. Additionally, it is likely that changes to the Ralph M. Brown Act may be duplicated in the Bagley-Keene Open Meeting Act which would affect DMH organizations such as the State Hospital Advisory Boards, the California Council on Mental Health, and the California Conference of Local Mental Health Directors.

## SPECIFIC FINDINGS

Several changes in the Ralph M. Brown Act would be made by AB 2674. These are:

1. Requiring that affected agencies post an agenda clearly describing topics to be covered in a publicly accessible place, at least 72 hours prior to the meeting. No action may be taken on any item not on this agenda. This section attempts to address the fact that an agency will often be very vague in detailing what topics will be covered (i.e. "old business", "new business", "miscellaneous business", without specifying what will be discussed under those items) when the initial meeting agenda is distributed to the public. This modification is in keeping with the legislative intent of the act to insure the public's right to know what is being done on their behalf.

ARC-17



| Position | | | | Governor's Office Use | |
|---|---|---|---|---|---|
| Neutral | | | | Position Noted | |
| | | ORIGINAL SIGNED ON | | Position Approved | ✓ |
| Department Director | Date 4/13 | Agency Secretary APR 22 1986 Sandra L. Shewry | Date | Position Disapproved | |
| | | | | By: | Date 4/25 |

2. Adds the requirement that all meetings of affected agencies include time for the public to address the agencies, providing no action is taken in violation of other provisions of the act.

3. Details provisions for notifying the public of emergency meetings. It is unlikely that local mental health advisory boards would find it necessary to call an emergency meeting under the provisions listed.

4. Adds a section allowing that action taken in violation of the provisions of this act may be deemed null and void, providing the individual initiating the action first approaches the agency to correct the action.

FISCAL IMPACT

None. The local mental health advisory boards appear to be complying with the requirements of this legislation. Therefore, the passage of this legislation will result in no fiscal impact to the Department of Mental Health.

RECOMMENDATION

Neutral. The department does not need to become directly involved in the issue at this time, however the bill should continue to be monitored due to its potential affect on the Bagley-Keene Open Meeting Act.



ARC-18

Honorable Lloyd Connelly
Member of the Assembly
State Capitol, Room 2179
Sacramento, CA 95814

| DEPARTMENT | AUTHOR | BILL NUMBER |
|---|---|---|
| Finance | Connelly | AB 2674 |
| SPONSORED BY | RELATED BILLS | AMENDMENT DATE |
| | | March 18, 1986 |

BILL SUMMARY

This bill revises local agency open meeting requirements.

FISCAL SUMMARY--STATE LEVEL

| Code/Department Agency or Revenue Type | SO LA CO RV | (Fiscal Impact by Fiscal Year) (Dollars in Thousands) FC 1985-86 | FC 1986-87 | FC 1987-88 | Code Fund |
|---|---|---|---|---|---|
| 8885--Commission on State Mandates | LA | -- | S $1 | $2 | 360 State Mandates Claims |

FISCAL SUMMARY--LOCAL LEVEL

| | 1985-86 | 1986-87 | 1987-88 |
|---|---|---|---|
| Reimbursable Expenditures | -- | $1 | $2 |
| Non-Reimbursable Expenditures | -- | -- | -- |
| Revenues | -- | -- | -- |

ANALYSIS

A. Specific Findings

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 the existing law, the legislative body of a local agency is not required to post a specific agenda 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, as specified.

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 the legislative body to adopt reasonable regulations, as specified.

(Continued)

POSITION: Department Director

Neutral, recommend technical amendment.

Date

ARC-19

| Principal Analyst (621) | Date | Program Budget Manager | Date | Governor's Office |
|---|---|---|---|---|
| | | | | Position noted |
| | | | | Position approved |
| | | | | Position disapproved |
| | | | | by: date: |

4/7/86 1-7-86

LB:0413A-1

BILL ANALYSIS/ENROLLED BILL REPORT Form DF-43 (Rev 03/86 500 Bu)

BILL ANALYSIS--(continued) Form DF-43

| AUTHOR | AMENDMENT DATE | BILL NUMBER |
|---|---|---|
| Connelly | March 18, 1986 | AB 2674 |

ANALYSIS

A. Specific Findings (Continued)

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.

Existing law defines the term "actions 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 to determine if certain actions taken by the local agency are null and void. 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.

Existing law authorizes a court 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 above.

B. Fiscal Analysis

There are no direct State costs to any State agency in this bill. The attached "Local Cost Estimate" finds that there would be minor reimbursable state-mandated local costs which can be paid from the State Mandates Claims Fund. Although the language in Section 6 directs that reimbursement be made from that Fund, we believe that it is technically deficient and recommend that a technical amendment be made. Suggested amendments are attached.



LR:0413A-2

ARC-20

Proposed amendment

AB 2674

As amended March 18, 1986

On page 8, strike line 2 through 9, inclusive, and insert:

Sec. 6. The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, 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.

LR:0413A-3



ARC-21

Form DF-44R (Rev. 1/86 W 500)

| Local Cost ESTIMATE Department of Finance | NO. 1 ISSUE DATE APR 07 1986 | BILL NUMBER AB 2674 |
|---|---|---|
| | AUTHOR Connelly | DATE LAST AMENDED March 18, 1986 |

I. SUMMARY OF LOCAL IMPACT:

Revises open meeting requirements.

II. FISCAL SUMMARY--LOCAL LEVEL

| | 1985-86 | 1986-87 (Dollars in Thousands) | 1987-88 |
|---|---|---|---|
| Reimbursable Expenditures: | -- | $1 | $2 |
| Non-Reimbursable Expenditures: | -- | -- | -- |
| Revenues: | -- | -- | -- |

III. ANALYSIS:

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 the existing law, the legislative body of a local agency is not required to post a specific agenda 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, as specified.

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 permit the legislative body to adopt reasonable regulations as specified.

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.

Existing law defines the term "actions 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, to determine if certain actions taken by the local agency are null and void.

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.

(continued)

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| PREPARED | Date | * REVIEWED | Date | * APPROVED | Date |
|---|---|---|---|---|---|
| LR:0421A-1 | | * | 4/7/86 | * | 4-7-86 |

| AUTHOR | DATE LAST AMENDED | BILL NUMBER |
|---|---|---|
| Connelly | March 18, 1986 | AB 2674 |

III. ANALYSIS (continued)

Existing law authorizes a court 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 above.

Sections 17579 and 17610 of the Government Code allow the Controller to reimburse local entities from the State Mandates Claims Fund for the state-mandated local costs imposed on them by a statute if:

a. the statute contains a statement that it mandates a new program or higher level of service and specifies that reimbursement shall be made from the State Mandates Claims Fund if the statewide cost of the statute in the first year of its operation is less than $500,000; and

b. the Commission on State Mandates develops parameters and guidelines for reimbursement of costs and certifies to the Controller that the costs are estimated to be less than $500,000.

If enacted, this bill would result in minor additional costs. Since these estimated costs are well within the $500,000 ceiling on reimbursements from the State Mandates Claims Fund, the payment of those costs from that Fund would be appropriate. Although the language in Section 6 of the bill indicates a willingness to make those payments in that fashion, we believe that it is technically deficient because it does not contain a specific acknowledgement that the bill is a state mandate. The following language would be technically more appropriate:

> The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, 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.



LR:0421A-2

ARC-23

SCS Agency

# BILL ANALYSIS

Analyst: Thomas M. Cecil
Bus. Ph: 322-5252
Home Ph: 484-6670

| Department | Author | Bill Number |
|---|---|---|
| CONSUMER AFFAIRS | Connelly | AB 2674 |
| **Sponsored by** | **Related Bills** | **Date Last Amended** |
| Author | AB 214, Ch. 936 Stats of 1985 | March 18, 1986 |

SUMMARY
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5 Current Practice
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11 Future Impact
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38 Support
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40 Neutral
41 No Position
42 If Amended
43 Amended Language Attached

## BILL SUMMARY

Current law provides for mandatory open and public meeting of state agencies and establishes specific notice and agenda requirements to ensure that the public is amply informed of all items of business under consideration. Legislation enacted in 1985 provides that the failure to comply with the notice or specific agenda requirements of the law could result in a judicial invalidation of any state agency action taken at a subsequent meeting.

While current law establishes general requirements that all actions of local legislative bodies be taken in open public session and that all deliberations be open and public (Ralph M. Brown Act), current law fails to conform local open meeting requirements with those that apply to state agencies as follows:

1. Current law does not uniformly require the posting of a specific agenda listing all items of business to be addressed by a local legislative body prior to a public meeting. This bill would require the posting of such an agenda at least 72 hours in advance of the meeting and would permit items to be added after that time only in the event of an "emergency situation" as defined in current law, or upon a finding by 2/3's of local legislative body that the need to take action on the items arose after the posting of the agenda.

2. Current law provides no remedy other than criminal misdemeanor penalties for a violation of the open meeting requirements of the Brown Act. This bill would permit an interested party to demand that any violation of the Brown Act be cured by proper



AMENDMENT SUMMARY:

| Dept. Director Position | Agency Sectry. Position | Governor's Office Use |
|---|---|---|
| ☒S ☐O ☐SIA ☐OUA | ☐S ☐O ☐SIA ☐OUA | ☐ Position Noted |
| ☐N ☐Defer_____ | ☐N ☐Defer_____ | ☐ Position Approved |
| | | ☐ Position Disapproved |
| | | By: Date: 4/1 |

| Department Director | Date | Agency Secretary | Date |
|---|---|---|---|
| Maria Shriver-Smith | 4/8/86 | Original signed by KAREN J. MORGAN Legislative Coordinator | |

99D-7 (Rev. 1/84)

ARC-24

notice and subsequent meeting. Failure to correct the deficiency would permit the aggrieved party to seek judicial action to invalidate the local legislative actions taken in violation of the open meeting provisions of law.

3. Current law does not require the agenda of a local legislative body to include provisions for members of the public to directly address the public body on items of interest. This bill would require with some exceptions, that the agenda provide for direct public comment at local legislative meetings.

4. Current law provides that a court may award reasonable court costs and attorney's fees to a plaintiff seeking civil relief for violations of the Brown Act and permits the defending public agency to recover costs and attorney's fees where that action is frivolous or totally lacking in merit.

   This bill would authorize the award of attorney's fees and costs where the plaintiff seeks to nullify or invalidate actions of local legislative bodies for violation of the Brown Act.

ANALYSIS

Background

In 1985, the Legislature enacted and the Governor signed legislation authorizing the courts to nullify the official action of "state agencies" where that action was taken in violation of the State Open Meeting Act, specifically where the agency failed to provide sufficient public notice or a specific agenda regarding the action taken. (AB 214 - Connelly, Chapter 936 Stats of 1985). Prior to that legislation, the only remedy for violation of the State Open Meetings Act were the criminal misdemeanor sanctions of law which proponents of this bill (AB 214) claim were rarily if ever applied.

The Connelly bill of 1985 did not address violations of the open meeting provisions of the Ralph M. Brown Act as that law affected meeting of local legislative bodies (e.g. city councils, boards of supervisors, school district boards, local planning commissions and other bodies.)

This legislation (AB 2674) is an effort to conform the Brown Act to the recently enacted provisions of the State Open Meetings Law, specifically to provide authority to nullify or void local action taken in violation of the open meeting requirements of the Brown Act.



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Proponents of this legislation cite the recent actions of the Los Angeles City Council and the Mayor of Los Angeles in enacting a local ordinance providing for a ten percent salary increase for themselves and other local officials as an incident demonstrating the need for this bill.

On June 5, 1985 without prior notice to the public or the press and without any substantive debate or disclosure as to the notice of the ordinance, the twelve members of the Los Angeles City Council then in attendance voted unanimously on an item of business simply referred to as "Item 53." Contrary to prior practice, the clerk of the Council was not directed to identify the subject of the item nor to read the ordinance or summarize it. The item was approved by the Council without comment and forwarded to the Mayor.

On June 6, 1985, the Mayor signed the ordinance thereby increasing salaries.

Upon review following suit in the Los Angeles Superior Court to nullify the actions of the Council, the Court concluded that "the City Council's consideration of the motion and the salary ordinance in a public place, during its regular session and its members having cast their votes in public met the minimum requirements of the Brown Act." (Statement of Intended Decision filed November 5, 1985.)

The court went on to conclude that while the actions of these city officials met the minimum requirements of the law, it "failed to comply with the spirit of the law" and further violated provisions of the City Charter. The court found the salary increase ordinance to be void and enjoined the city from disbursing the salaries as provided in the ordinance. However, their injunction was not grounded or any violation of the Brown Act.

Specific Findings

It should be noted that while this department had previously opposed specified provisions of AB 214 during the 1985 legislative term, the current bill (AB 2674) contains provisions addressing the principal concerns stated by this agency in last year's bill.

Principal among these is the provision calling for a "written demand" to cure any notice or agenda defects as a condition precedent to any suit. This provision of the bill will permit local agencies to cure any real deficiency rather than engaging in needless and costly litigation.



ARC-26

Further, in light of the passage of AB 214 in 1985, there is a need to conform local open meeting laws with those that apply to state agencies. It makes little sense to require state agencies to adhere to specific agenda and notice requirements and at the same time to allow agencies of local government to act in the absence of notice to the public. Such an incongruous system does little to engender public confidence which must be viewed as the ultimate objective of both the State Open Meetings Act as well as the Ralph M. Brown Act. Inconsistency in the law of public meetings can only lead to confusion and ultimate public frustration and contempt.

Under terms of the bill any interested party who believes a violation of the agenda or notice provisions of the bill has occurred may issue a written demand to the local legislative body to cure the deficiency (e.g. renotice and convene a subsequent meeting to reconsider the action.) The demand must be made within 30 days of the action taken and the legislative body has 15 days within which to act to cure the deficiency. Legal action to invalidate the official action may only be commenced after a written demand for corrective action is made, and in all cases must be commenced within 60 days of the alleged defective official action.

Proponents of the bill concede that present provisions in the bill may allow too much latitude to municipalities to avoid the notice and agenda requirements in cases where 2/3's of the public body vote to affirm that the need to take action arose after the posting of the agenda. According to the author's staff, there is concern that this provision might be abused, but it was included in the bill to meet arguments that the measure unreasonably restricted the activities of local legislative bodies.

Fiscal Impact

Fiscal analysis forthcoming from departmental budget office.

Socio-economic Impact

See Specific Findings Above.



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Interested Parties:

Proponents;
- League of Women Voters
- Attorney General
- California District Attorney's Association
- District Attorneys of Alameda, San Joaquin and Los Angeles Counties
- Sierra Club
- ACLU
- State P.T.A.
- PORAC
- California Taxpayers Association
- California Freedom of Information Committee

Opponents:
- League of California Cities
- Association of California Water Agencies
- Sanitation Districts of California
- Numerous California Cities

Note: According to the author's office both the County Supervisors Association of California and the California Newspaper Publishers Association are neutral on the bill as amended.

Arguments:

Proponents of the bill argue that the measure is needed to avoid situations similar to that which occurred in the City of Los Angeles in 1985 to remove the incentives for unlawful or questionable conduct on the part of municipal officials. The bill, they argue, would stem this type of conduct by mandating specific agenda and notice requirements and by providing avenues to nullify action taken in contravention of these requirements.

These proponents also meet the objection that the bill will disturb the finality of local government decisions pointing out that suits to invalidate official action under the bill must be commenced within strict time limitations and only after the municipality has received a written demand to cure the deficiency.

Opponents of the bill argue that the measure does not provide sufficient flexibility for local government to address legitimate municipal concerns. They also argue that the bill will disturb the finality of local government decisions and actions thereby calling into question those decisions and destroying public reliance on actions which would otherwise be final.

Recommendation

The Department of Consumer Affairs recommends a position of SUPPORT on this bill.

ARC-28

ASSEMBLY LOCAL GOVERNMENT COMMITTEE
REPUBLICAN ANALYSIS

AB 2674 (Connelly) -- OPEN MEETINGS:LOCAL AGENCIES
Version: 3/18/86 Vice-Chairman: Bill Lancaster
Recommendation: Supportable Vote: Majority

Summary: Amends the Ralph M. Brown Open Meeting Act and the Education Code to 1) require the legislative body of a local agency (including school and community college district boards) to post a brief agenda, in a freely accessible public place, generally describing items of business to be transacted/discussed, a) 72 hours before a regular meeting or, b) 24 hours before a special meeting; 2) prohibits a local legislative body from taking action on items not on the posted agenda; 3) would allow interested citizens to address the legislative body on items of interest that are within the body's subject matter jurisdiction (unless the item had been discussed at a previous committee of the body and had not been subsequently changed since the committee decision), 4) allow interested persons (within the time frame described in comments) to commence action to declare actions, deemed to be in violation of the Brown Act, "null and void"; 5) a legislative/governing body, notified of possible violation(s) of the Brown Act, may correct their action(s) before a suit is filed and any cure of possible violation(s) shall not be construed that an actual violation took place, 6) authorize the award of reasonable attorneys fees in "null and void" law suits. Fiscal effect: Unknown, possibly significant, state costs for reimbursement of "reasonable attorneys fees" and for required mailed and published notices.

Supported by: Common Cause (sponsor); Cal-Tax, Attorney General, CA District Attorneys Assn. , Counties of L.A., Alameda, San Joaquin, PORAC, Sierra Club, Schools Legal Services (80 school agencies), League of Women Voters, CA State PTA, CA State Freedom of Information Committee, CA Grocers Assn., CA Society of Newspaper Editors, Dept of Consumer Affairs. Opposed by: League of Cities (pending amendments), Assoc. of CA Water Agencies, CA Assn. of Sanitation Agencies, Cities of L.A. and 33 others, San Mateo County Council of Mayors, Dept of Finance (neutral), Youthful Offender Parole Board (neutral), Dept of Mental Health (neutral). Governor's position: None.

Comments: Introduced in response to a vote of the Los Angeles City Council on an agenda item #53, later revealed as a salary increase for the council and other city officers. Proponents state that, although the Brown Act has enforcement/penalties related to behind-the-scenes meetings, the Act has no teeth regarding (unannounced) special agenda items.

ARC-29

Public concerns, regarding conformance of local agency actions to the Brown Act, may be raised to declare the action "null and void" in the following manner: a) written request must be made for the agency to correct/cure its actions within 30 days of the action, b) agency must correct/cure its actions or respond in writing of its decision not to cure within 15 days of public request, c) no legal action may be taken later than 75 days from the date the challenged action was taken.

Opponents claim that the 30 day "null and void" period would create a cloud over all actions taken by local agencies and would delay enacting these actions for 30 days. They also stress that the public would be able to add agenda items after the agenda has been set which could cause council's/ staff's workload to be greatly burdened.

Assembly Republican Committee Vote
Local Government -- 4/1/86
(8-0) Ayes: Bradley, Frazee, Rogers
N.V.: Lancaster
Ways and Means -- 4/9/86
(20-1) Ayes: All Republicans present
Senate Republican Floor Vote --
( Ayes:
Consultant: Tracy Morgan



ARC-30

# NO ANALYSIS REQUIRED

Analyst: Daniel Buntjer
Bus. Ph: 445-4216
Home Ph:

| Department | Bill Number/Author: |
|---|---|
| CONSUMER AFFAIRS | AB 2674/Connelly |
| **Agency** | **Date Last Amended:** |
| STATE AND CONSUMER SERVICES | 6-4-86 |

1. ☐ - Analysis not required of this bill. Not within the scope of responsibility of this department.

2. ☐ - Bill of minor significance. No analysis required at this time. See comments below.

3. ☐ - Technical bill -- no program or fiscal changes to existing program.

4. ☐ - Bill as amended no longer within scope of responsibility or program of this department and should be reviewed for reassignment to another department.

5. ☒ - Minor or technical amendment. Previously submitted analysis still valid. Previously ☐ recommended ☒ approved position is SUPPORT. See comments below.

6. ☐ - WATCH -- Analysis not required at this time, but bill's progress will be monitored. See comments below.

COMMENTS:

The amendments to the Education and Government Codes, made on June 4, 1986, are technical in nature as they concern agenda requirements for local legislative bodies in specified situations.

OK pw 7/28

ARC-31

Support

| Department Director | Date | Agency Secretary | Date |
|---|---|---|---|
| Marie Shibuya Snell | 6/24/86 | Original signed by [illegible] MORGAN Legislative Coordinator | JUN 25 1986 |

99D-8 (Rev. 1/84)

State of California—Health and Welfare Agency

Department of Mental Health

# NO ANALYSIS REQUIRED

MH 39 (7/81)

| Department | Bill Number |
|---|---|
| Mental Health | AB 2674 |
| **Agency** | **Date Last Amended** |
| Health and Welfare | 6/4/86 |

☐ Analysis is not required of this bill -- Not within scope of responsibility of this department.

☐ Technical Bill -- No program or fiscal changes to existing program.

☐ Bill as amended no longer within scope of responsibility or program of the department and should be reviewed for reassignment to another department.

☐ Technical Amendment -- No change in previously submitted analysis required.
Approved position of prior analysis is _____.

☐ Minor Amendment -- Previously submitted analysis still valid. Previously approved position is _____.

☒ Minor Amendment -- No change in approved position of Neutral.
See comments below.

Comments:

This bill, as amended, would relieve a city council or board of supervisors of their obligation to provide members of the public an opportunity to address the council or board on a particular agenda item provided:

1) It has already been considered by a committee, composed exclusively of members of the council or board at a public meeting,

2) The public was afforded the opportunity to address the committee on the item,

3) The item has not been substantially changed since the committee heard it, as determined by the council or board.

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ORIGINAL SIGNED ON

| Department Director: | Date: | Agency Secretary: JUN 26 1986 Sandra L. Shewry | Date |
|---|---|---|---|
| | 6/25 | | |

ASSEMBLY LOCAL GOVERNMENT COMMITTEE
REPUBLICAN ANALYSIS

AB 2674 (Connelly) -- OPEN MEETINGS:LOCAL AGENCIES
Version: 6/4/86 Vice-Chairman: Bill Lancaster
Recommendation: Supportable. Vote: Majority

Summary: Amends the Ralph M. Brown Open Meeting Act and the Education Code to strengthen the laws requiring open meetings. The most significant change is allowing interested citizens to commence an action within 30 days to have any government action in violation of the open meeting laws declared "null and void". Authorizes the award of reasonable attorneys fees in "null and void" law suits. Makes numerous other less controversial changes. Fiscal effect: Unknown, possibly significant, state costs for reimbursement of "reasonable attorneys fees" and for required mailed and published notices.

Supported by: Common Cause (sponsor); Cal-Tax, Attorney General, CA District Attorneys Assn. , Counties of L.A., Alameda, San Joaquin, PORAC, Sierra Club, Schools Legal Services (80 school agencies), League of Women Voters, CA State PTA, CA State Freedom of Information Committee, CA Grocers Assn., CA Society of Newspaper Editors, Dept of Consumer Affairs, CA School Boards Assn, Community College Facility Assn. Opposed by: CA Assn. of Sanitation Agencies, San Mateo County Council of Mayors, City of San Diego. Neutral: Cities of L.A. and 33 others, Assoc. of CA Water Agencies, Dept of Finance, Youthful Offender Parole Board, Dept of Mental Health. Governor's position: None.

Comments: Introduced in response to a vote of the Los Angeles City Council on an agenda item #53, later revealed as a salary increase for the council and other city officers. Proponents state that, although the Brown Act has enforcement/penalties related to behind-the-scenes meetings, the Act has no teeth regarding (unannounced) special agenda items.

Opponents claim that the 30 day "null and void" period would create a cloud over all actions taken by local agencies and would delay enacting these actions for 30 days. They also stress that the public would be able to add agenda items after the agenda has been set which could cause a council's/staff's workload to be greatly burdened.

Assembly Republican Floor Vote
Floor Ayes: All other Reps present
(69-4) Noes: Lancaster, Wright
Senate Republican Floor Vote -- 7/3/86
(37-0) Ayes: All Republicans present
Consultant: Tracy Morgan

ARC-33

# BILL ANALYSIS — YOUTH AND ADULT CORRECTIONAL AGENCY

| DEPARTMENT | AUTHOR | BILL NO. |
|---|---|---|
| Youthful Offender Parole Board | Lloyd Connelly | AB 2674 |
| **SPONSORED BY** | **RELATED BILLS** | **DATE LAST AMENDED** |
| Author | None | Original |

**BILL SUMMARY**

**This bill is directed toward actions of legislative bodies of local agencies. It requires the posting of agenda, notice to the public, and if a meeting is closed to the public, a statement citing the legal authority for such a closed session.**

**BACKGROUND**

**These admendments relate to existing legislation known as the Ralph M. Brown Act. This Act covers meetings open to the public conducted by local agencies.**

**Local agencies is defined under Section 54951 of the Government Code and reads as follows: "As used in this chapter, 'local agency' means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision or any board, commission or agency thereof, or other local public agency.**

**The Bagley-Keene Open Meeting Act governs state bodies. It is defined under Section 11211 of the Government Code as follows: "As used in this article 'state body' means every state board or commission or similar multi-member body of the state which is required by law to conduct official meetings and every commission created by executive order, but does not include:**

**(a) State agencies provided for in Article VI of the California Constitution.**
**(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the provisions of the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of this code.**
**(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Greensky-Burton Open Meeting Act , Section 9027 et seq., of this code.**
**(d) State agencies when they are conducting proceedings pursuant to Section 3596 of this code.**
**(e) State agencies provided for in Section 1702 of the Health and Safety Code, except as provided in Section 1720 of the Health and Safety Code.**
**(f) State agencies provided for in Section 11770.5 of the Insurance Code.**



| POSITION | Governor's Office Use |
|---|---|
| Neutral | Position noted |
| | Position approved ✓ |
| | Position disapproved |

| | DATE | AGENCY SECRETARY | DATE |
|---|---|---|---|
| Welby A. Cramer, Chairman<br>Youthful Offender Parole Board<br>Welby A. Cramer | 3/20/86 | MAR 0 | |

BY STEPHEN [illegible]

pw 4/1/86

LIS - 9b

ARC - 1b

IMPACT OF BILL

Assemblyman Lloyd Connelly's Bill AB 2674 has no impact on the Youthful Offender Parole Board. This Board is covered by the Bagley-Keene Open Meeting Act.

RECOMMENDED POSITION

Neutral

AB 2674

Proposed
ASSEMBLY

ACWA

February 13, 1986

The Honorable Lloyd Connelly
California State Assembly
State Capitol
Sacramento, California 95814

Re: Assembly Bill 2674

Dear Assemblyman Connelly:

This is to express our opposition to your Assembly Bill 2674, which makes several changes in the Ralph M. Brown Act. Several of these changes could greatly interfere with the orderly conduct of the public's business and impede the provision of necessary services.

We generally concur with the comments forwarded to you by the League of California Cities and would appreciate the opportunity to discuss our problems with you at your convenience.

Sincerely,

Louis B. Allen

Louis B. Allen
Assistant Executive Director

LBA:DH

cc: Assembly Committee on Local Government
County Supervisors Association of California
California Special Districts Association
California Association of Sanitation Agencies
California Municipal Utilities Association
League of California Cities

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*SACRAMENTO, CA 95814*
*(916) 441-4545*

**75th ANNIVERSARY**



ARC - 3b

AB 2674

Cal-Tax
CALIFORNIA TAXPAYERS ASSOCIATION
SUITE 800 • 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

ORIGINAL FILED

NOV0 4 1985

COUNTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

| | |
|---|---|
| DOROTHY GREEN, Taxpayer and Voter, Petitioner/Plaintiff, vs. CITY OF LOS ANGELES, LOS ANGELES CITY COUNCIL, and JAMES HAHN, AS CONTROLLER OF THE CITY OF LOS ANGELES, Respondents/Defendants. | Case No. C 554145 STATEMENT OF INTENDED DECISION |

After a review of the evidence presented on October 28, 1985, and further argument and a reading of the briefs, the Court finds and rules as is further stated in this intended decision.

FACTS

On June 5, 1985, by unanimous vote of the twelve (12) members present (Messrs, Bernson, Braude, Cunningham, Farrell, Ferraro, Flores, Lindsay, Snyder, Stevenson, Wachs, Yaroslavsky, and President Russell), the City Council voted to approve an ordinance, designated Ordinance No. 159926, increasing by 10 percent the salaries of the Mayor, the City

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

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

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

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.

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

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

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

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



## DISCUSSION

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

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

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

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

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

The City Council complied with its procedural rules.

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

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

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

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.

//

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

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

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

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

//

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

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

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

//

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





76T576T - PS 12-84

AB 2674

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

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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

State of California—Health and Welfare Agency | Department of Mental Health

**BILL ANALYSIS**

MH 35 (7/81)

| Department | Author | Bill Number |
|---|---|---|
| Mental Health | Connelly | AB 2674 |
| Sponsored By Common Cause/League of Women Voters | Related Bills | Date Last Amended March 18, 1986 |

Summary

**SUMMARY**

AB 2674 relates to the Ralph M. Brown Act governing meetings of local agencies. The bill would strengthen the provisions of these statutes by making changes to the type of information given to the public in advance, by mandating time for the public to address the bodies in question, and by adding sanctions for violation of the statutes.

**LEGISLATIVE BACKGROUND**

AB 2674 is co-sponsored by Common Cause and the League of Women Voters. A bill dealing with the "null and void" provisions of the law was passed in 1961 and vetoed by then Governor Pat Brown, however this bill is substantially different.

**PROGRAM BACKGROUND**

Although this bill does not affect any portion of the Department directly, the local mental health advisory boards which advise each county mental health department are affected. Additionally, it is likely that changes to the Ralph M. Brown Act may be duplicated in the Bagley-Keene Open Meeting Act which would affect DMH organizations such as the State Hospital Advisory Boards, the California Council on Mental Health, and the California Conference of Local Mental Health Directors.

**SPECIFIC FINDINGS**

Several changes in the Ralph M. Brown Act would be made by AB 2674. These are:

1. Requiring that affected agencies post an agenda clearly describing topics to be covered in a publicly accessible place, at least 72 hours prior to the meeting. No action may be taken on any item not on this agenda. This section attempts to address the fact that an agency will often be very vague in detailing what topics will be covered (i.e. "old business", "new business", "miscellaneous business", without specifying what will be discussed under those items) when the initial meeting agenda is distributed to the public. This modification is in keeping with the legislative intent of the act to insure the public's right to know what is being done on their behalf.

| Position | | | | Governor's Office Use |
|---|---|---|---|---|
| Neutral | | | | Position Noted |
| | | ORIGINAL SIGNED | | Position Approved |
| Department Director | Date 4/15 | Agency Secretary APR 22 1986 Sandra L. Shewry | Date | Position Disapproved |
| | | | | By Date |



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2. Adds the requirement that all meetings of affected agencies include time for the public to address the agencies, providing no action is taken in violation of other provisions of the act.

3. Details provisions for notifying the public of emergency meetings. It is unlikely that local mental health advisory boards would find it necessary to call an emergency meeting under the provisions listed.

4. Adds a section allowing that action taken in violation of the provisions of this act may be deemed null and void, providing the individual initiating the action first approaches the agency to correct the action.

**FISCAL IMPACT**

None. The local mental health advisory boards appear to be complying with the requirements of this legislation. Therefore, the passage of this legislation will result in no fiscal impact to the Department of Mental Health.

**RECOMMENDATION**

Neutral. The department does not need to become directly involved in the issue at this time, however the bill should continue to be monitored due to its potential affect on the Bagley-Keene Open Meeting Act.

Honorable Lloyd Connelly
Member of the Assembly
State Capitol, Room 2179
Sacramento, CA 95814

| DEPARTMENT | AUTHOR | BILL NUMBER |
|---|---|---|
| Finance | Connelly | AB 2674 |
| SPONSORED BY | RELATED BILLS | AMENDMENT DATE |
| | | March 18, 1986 |

**BILL SUMMARY**

This bill revises local agency open meeting requirements.

**FISCAL SUMMARY--STATE LEVEL**

| Code/Department Agency or Revenue Type | SO LA CO RV | (Fiscal Impact by Fiscal Year) (Dollars in Thousands) FC 1985-86 | FC 1986-87 | FC 1987-88 | Code Fund |
|---|---|---|---|---|---|
| 8885--Commission on State Mandates | LA | -- | S $1 | $2 | 360 State Mandates Claims |

**FISCAL SUMMARY--LOCAL LEVEL**

| | 1985-86 | 1986-87 | 1987-88 |
|---|---|---|---|
| Reimbursable Expenditures | -- | $1 | $2 |
| Non-Reimbursable Expenditures | -- | -- | -- |
| Revenues | -- | -- | -- |

**ANALYSIS**

A. Specific Findings

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 the existing law, the legislative body of a local agency is not required to post a specific agenda 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, as specified.

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 the legislative body to adopt reasonable regulations, as specified.

(Continued)

POSITION: Department Director

Neutral, recommend technical amendment.
Date

| Principal Analyst (621) | Date | Program Budget Manager | Date | Governor's Office |
|---|---|---|---|---|
| James M Apps | 4-7-86 | Judy A Apps by JAA | 4-7-86 | Position noted<br>Position approved<br>Position disapproved<br>by: date: |

LB:0413A-1

BILL ANALYSIS--(continued) Form DF-43

| AUTHOR | AMENDMENT DATE | BILL NUMBER |
|---|---|---|
| Connelly | March 18, 1986 | AB 2674 |

ANALYSIS

A. Specific Findings (Continued)

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.

Existing law defines the term "actions 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 to determine if certain actions taken by the local agency are null and void. 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.

Existing law authorizes a court 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 above.

B. Fiscal Analysis

There are no direct State costs to any State agency in this bill. The attached "Local Cost Estimate" finds that there would be minor reimbursable state-mandated local costs which can be paid from the State Mandates Claims Fund. Although the language in Section 6 directs that reimbursement be made from that Fund, we believe that it is technically deficient and recommend that a technical amendment be made. Suggested amendments are attached.

LR:0413A-2

Proposed amendment

AB 2674

As amended March 18, 1986

On page 8, strike line 2 through 9, inclusive, and insert:

Sec. 6. The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, 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.

LR:0413A-3

Form DF-44R (Rev. 1/86 W 500)

| | NO. | ISSUE DATE | BILL NUMBER |
|---|---|---|---|
| Local Cost | 1 | APR 07 1986 | AB 2674 |
| E S T I M A T E | AUTHOR | | DATE LAST AMENDED |
| Department of Finance | Connelly | | March 18, 1986 |

I. SUMMARY OF LOCAL IMPACT:

Revises open meeting requirements.

| II. FISCAL SUMMARY--LOCAL LEVEL | 1985-86 | 1986-87 (Dollars in Thousands) | 1987-88 |
|---|---|---|---|
| Reimbursable Expenditures: | -- | $1 | $2 |
| Non-Reimbursable Expenditures: | -- | -- | -- |
| Revenues: | -- | -- | -- |

III. ANALYSIS:

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 the existing law, the legislative body of a local agency is not required to post a specific agenda 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, as specified.

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 permit the legislative body to adopt reasonable regulations as specified.

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.

Existing law defines the term "actions 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, to determine if certain actions taken by the local agency are null and void.

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.

(continued)

| PREPARED | Date | * REVIEWED | Date | * APPROVED | Date |
|---|---|---|---|---|---|
| LR:0421A-1 | | * | 4/7/86 | * | 4-7-86 |

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| AUTHOR | DATE LAST AMENDED | BILL NUMBER |
|---|---|---|
| Connelly | March 18, 1986 | AB 2674 |

III. ANALYSIS (continued)

Existing law authorizes a court 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 above.

Sections 17579 and 17610 of the Government Code allow the Controller to reimburse local entities from the State Mandates Claims Fund for the state-mandated local costs imposed on them by a statute if:

a. the statute contains a statement that it mandates a new program or higher level of service and specifies that reimbursement shall be made from the State Mandates Claims Fund if the statewide cost of the statute in the first year of its operation is less than $500,000; and

b. the Commission on State Mandates develops parameters and guidelines for reimbursement of costs and certifies to the Controller that the costs are estimated to be less than $500,000.

If enacted, this bill would result in minor additional costs. Since these estimated costs are well within the $500,000 ceiling on reimbursements from the State Mandates Claims Fund, the payment of those costs from that Fund would be appropriate. Although the language in Section 6 of the bill indicates a willingness to make those payments in that fashion, we believe that it is technically deficient because it does not contain a specific acknowledgement that the bill is a state mandate. The following language would be technically more appropriate:

> The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, 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.

LR:0421A-2

SCS Agency

# BILL ANALYSIS

Analyst: Thomas M. Cecil
Bus. Ph: 322-5252
Home Ph: 484-6670

| Department | Author | Bill Number |
|---|---|---|
| CONSUMER AFFAIRS | Connelly | AB 2674 |
| **Sponsored by** | **Related Bills** | **Date Last Amended** |
| Author | AB 214, Ch. 936 Stats of 1985 | March 18, 1986 |

SUMMARY
1 Description
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5 Current Practice
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7 Justification
8 Alternatives
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11 Future Impact
12 Termination
FISCAL IMPACT ON STATE BUDGET
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26 Funds Transfer
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SOCIO-ECONOMIC IMPACT
29 Rights Effect
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INTERESTED PARTIES
35 Proponents
36 Opponents
37 Pro/Con Arguments
RECOMMENDATION JUSTIFICATION
38 Support
39 Oppose
40 Neutral
41 No Position
42 If Amended
43 Amended Language Attached

## BILL SUMMARY

Current law provides for mandatory open and public meetings of state agencies and establishes specific notice and agenda requirements to ensure that the public is amply informed of all items of business under consideration. Legislation enacted in 1985 provides that the failure to comply with the notice or specific agenda requirements of the law could result in a judicial invalidation of any state agency action taken at a subsequent meeting.

While current law establishes general requirements that all actions of local legislative bodies be taken in open public session and that all deliberations be open and public (Ralph M. Brown Act), current law fails to conform local open meeting requirements with those that apply to state agencies as follows:

1. Current law does not uniformly require the posting of a specific agenda listing all items of business to be addressed by a local legislative body prior to a public meeting. This bill would require the posting of such an agenda at least 72 hours in advance of the meeting and would permit items to be added after that time only in the event of an "emergency situation" as defined in current law, or upon a finding by 2/3's of local legislative body that the need to take action on the items arose after the posting of the agenda.

2. Current law provides no remedy other than criminal misdemeanor penalties for a violation of the open meeting requirements of the Brown Act. This bill would permit an interested party to demand that any violation of the Brown Act be cured by proper



AMENDMENT SUMMARY:

| Dept. Director Position | Agency Sectry. Position | Governor's Office Use |
|---|---|---|
| ☒S ☐O ☐SIA ☐OUA | ☒S ☐O ☐SIA ☐OUA | ☐ Position Noted |
| ☐N ☐Defer_____ | ☐N ☐Defer_____ | ☑ Position Approved |
| | | ☐ Position Disapproved |
| | | By: Date: 4/14 |

| Department Director | Date | Agency Secretary | Date |
|---|---|---|---|
| Maria Shelonga-Smith | 4/8/86 | Original signed by KAREN L. NORGAN Legislative Coordinator | |

99D-7 (Rev. 1/84)

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notice and subsequent meeting. Failure to correct the deficiency would permit the aggrieved party to seek judicial action to invalidate the local legislative actions taken in violation of the open meeting provisions of law.

3. Current law does not require the agenda of a local legislative body to include provisions for members of the public to directly address the public body on items of interest. This bill would require with some exceptions, that the agenda provide for direct public comment at local legislative meetings.

4. Current law provides that a court may award reasonable court costs and attorney's fees to a plaintiff seeking civil relief for violations of the Brown Act and permits the defending public agency to recover costs and attorney's fees where that action is frivolous or totally lacking in merit.

   This bill would authorize the award of attorney's fees and costs where the plaintiff seeks to nullify or invalidate actions of local legislative bodies for violation of the Brown Act.

ANALYSIS

Background

In 1985, the Legislature enacted and the Governor signed legislation authorizing the courts to nullify the official action of "state agencies" where that action was taken in violation of the State Open Meeting Act, specifically where the agency failed to provide sufficient public notice or a specific agenda regarding the action taken. (AB 214 - Connelly, Chapter 936 Stats of 1985). Prior to that legislation, the only remedy for violation of the State Open Meetings Act were the criminal misdemeanor sanctions of law which proponents of this bill (AB 214) claim were rarily if ever applied.

The Connelly bill of 1985 did not address violations of the open meeting provisions of the Ralph M. Brown Act as that law affected meetings of local legislative bodies (e.g. city councils, boards of supervisors, school district boards, local planning commissions and other bodies.)

This legislation (AB 2674) is an effort to conform the Brown Act to the recently enacted provisions of the State Open Meetings Law, specifically to provide authority to nullify or void local action taken in violation of the open meeting requirements of the Brown Act.

Proponents of this legislation cite the recent actions of the Los Angeles City Council and the Mayor of Los Angeles in enacting a local ordinance providing for a ten percent salary increase for themselves and other local officials as an incident demonstrating the need for this bill.

On June 5, 1985 without prior notice to the public or the press and without any substantive debate or disclosure as to the notice of the ordinance, the twelve members of the Los Angeles City Council then in attendance voted unanimously on an item of business simply referred to as "Item 53." Contrary to prior practice, the clerk of the Council was not directed to identify the subject of the item nor to read the ordinance or summarize it. The item was approved by the Council without comment and forwarded to the Mayor.

On June 6, 1985, the Mayor signed the ordinance thereby increasing salaries.

Upon review following suit in the Los Angeles Superior Court to nullify the actions of the Council, the Court concluded that "the City Council's consideration of the motion and the salary ordinance in a public place, during its regular session and its members having cast their votes in public met the minimum requirements of the Brown Act." (Statement of Intended Decision filed November 5, 1985.)

The court went on to conclude that while the actions of these city officials met the minimum requirements of the law, it "failed to comply with the spirit of the law" and further violated provisions of the City Charter. The court found the salary increase ordinance to be void and enjoined the city from disbursing the salaries as provided in the ordinance. However, their injunction was not grounded or any violations of the Brown Act.

Specific Findings

It should be noted that while this department had previously opposed specified provisions of AB 214 during the 1985 legislative term, the current bill (AB 2674) contains provisions addressing the principal concerns stated by this agency in last year's bill.

Principal among these is the provision calling for a "written demand" to cure any notice or agenda defects as a condition precedent to any suit. This provision of the bill will permit local agencies to cure any real deficiency rather than engaging in needless and costly litigation.

Further, in light of the passage of AB 214 in 1985, there is a need to conform local open meeting laws with those that apply to state agencies. It makes little sense to require state agencies to adhere to specific agenda and notice requirements and at the same time to allow agencies of local government to act in the absence of notice to the public. Such an incongruous system does little to engender public confidence which must be viewed as the ultimate objective of both the State Open Meetings Act as well as the Ralph M. Brown Act. Inconsistency in the law of public meetings can only lead to confusion and ultimate public frustration and contempt.

Under terms of the bill any interested party who believes a violation of the agenda or notice provisions of the bill has occurred may issue a written demand to the local legislative body to cure the deficiency (e.g. renotice and convene a subsequent meeting to reconsider the action.) The demand must be made within 30 days of the action taken and the legislative body has 15 days within which to act to cure the deficiency. Legal action to invalidate the official action may only be commenced after a written demand for corrective action is made, and in all cases must be commenced within 60 days of the alleged defective official action.

Proponents of the bill concede that present provisions in the bill may allow too much latitude to municipalities to avoid the notice and agenda requirements in cases where 2/3's of the public body vote to affirm that the need to take action arose after the posting of the agenda. According to the author's staff, there is concern that this provision might be abused, but it was included in the bill to meet arguments that the measure unreasonably restricted the activities of local legislative bodies.

Fiscal Impact

Fiscal analysis forthcoming from departmental budget office.

Socio-economic Impact

See Specific Findings Above.

Interested Parties:

Proponents:
- League of Women Voters
- Attorney General
- California District Attorney's Association
- District Attorneys of Alameda, San Joaquin and Los Angeles Counties
- Sierra Club
- ACLU
- State P.T.A.
- PORAC
- California Taxpayers Association
- California Freedom of Information Committee

Opponents:
- League of California Cities
- Association of California Water Agencies
- Sanitation Districts of California
- Numerous California Cities

Note: According to the author's office both the County Supervisor's Association of California and the California Newspaper Publishers Association are neutral on the bill as amended.

Arguments:

Proponents of the bill argue that the measure is needed to avoid situations similar to that which occurred in the City of Los Angeles in 1985 to remove the incentives for unlawful or questionable conduct on the part of municipal officials. The bill, they argue, would stem this type of conduct by mandating specific agenda and notice requirements and by providing avenues to nullify action taken in contravention of these requirements.

These proponents also meet the objection that the bill will disturb the finality of local government decisions pointing out that suits to invalidate official action under the bill must be commenced within strict time limitations and only after the municipality has received a written demand to cure the deficiency.

Opponents of the bill argue that the measure does not provide sufficient flexibility for local government to address legitimate municipal concerns. They also argue that the bill will disturb the finality of local government decisions and actions thereby calling into question those decisions and destroying public reliance on actions which would otherwise be final.

Recommendation

The Department of Consumer Affairs recommends a position of SUPPORT on this bill.

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 -

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 | San Mateo County Council of Mayors |
| California Society of Newspaper Editors | City and County of San Francisco |
| | City of San Luis Obispo |
| | City of Bradbury |



Mary McMillan
445-6034.
algov.

ASSEMBLY LOCAL GOVERNMENT COMMITTEE
REPUBLICAN ANALYSIS

AB 2674 (Connelly) -- OPEN MEETINGS:LOCAL AGENCIES
Version: 3/18/86 Vice-Chairman: Bill Lancaster
Recommendation: Supportable Vote: Majority

Summary: Amends the Ralph M. Brown Open Meeting Act and the Education Code to 1) require the legislative body of a local agency (including school and community college district boards) to post a brief agenda, in a freely accessible public place, generally describing items of business to be transacted/discussed, a) 72 hours before a regular meeting or, b) 24 hours before a special meeting; 2) prohibits a local legislative body from taking action on items not on the posted agenda; 3) would allow interested citizens to address the legislative body on items of interest that are within the body's subject matter jurisdiction (unless the item had been discussed at a previous committee of the body and had not been subsequently changed since the committee decision), 4) allow interested persons (within the time frame described in comments) to commence action to declare actions, deemed to be in violation of the Brown Act, "null and void"; 5) a legislative/governing body, notified of possible violation(s) of the Brown Act, may correct their action(s) before a suit is filed and any cure of possible violation(s) shall not be construed that an actual violation took place, 6) authorize the award of reasonable attorneys fees in "null and void" law suits. Fiscal effect: Unknown, possibly significant, state costs for reimbursement of "reasonable attorneys fees" and for required mailed and published notices.

Supported by: Common Cause (sponsor); Cal-Tax, Attorney General, CA District Attorneys Assn. , Counties of L.A., Alameda, San Joaquin, PORAC, Sierra Club, Schools Legal Services (80 school agencies), League of Women Voters, CA State PTA, CA State Freedom of Information Committee, CA Grocers Assn., CA Society of Newspaper Editors, Dept of Consumer Affairs. Opposed by: League of Cities (pending amendments), Assoc. of CA Water Agencies, CA Assn. of Sanitation Agencies, Cities of L.A. and 33 others, San Mateo County Council of Mayors, Dept of Finance (neutral), Youthful Offender Parole Board (neutral), Dept of Mental Health (neutral). Governor's position: None.

Comments: Introduced in response to a vote of the Los Angeles City Council on an agenda item #53, later revealed as a salary increase for the council and other city officers. Proponents state that, although the Brown Act has enforcement/penalties related to behind-the-scenes meetings, the Act has no teeth regarding (unannounced) special agenda items.

Public concerns, regarding conformance of local agency actions to the Brown Act, may be raised to declare the action "null and void" in the following manner: a) written request must be made for the agency to correct/cure its actions within 30 days of the action, b) agency must correct/cure its actions or respond in writing of its decision not to cure within 15 days of public request, c) no legal action may be taken later than 75 days from the date the challenged action was taken.

Opponents claim that the 30 day "null and void" period would create a cloud over all actions taken by local agencies and would delay enacting these actions for 30 days. They also stress that the public would be able to add agenda items after the agenda has been set which could cause council's/ staff's workload to be greatly burdened.

Assembly Republican Committee Vote
Local Government -- 4/1/86
(8-0) Ayes: Bradley, Frazee, Rogers
N.V.: Lancaster
Ways and Means -- 4/9/86
(20-1) Ayes: All Republicans present
Senate Republican Floor Vote --
( Ayes:
Consultant: Tracy Morgan

**SENATE LOCAL GOVERNMENT COMMITTEE**
**Senator Marian Bergeson, Chairman**

**Assembly Bill 2674** - Connelly

| | | |
|---|---|---|
| **VERSION:** | 05/22/86 | A |
| **SET:** | First | B |
| **HEARING:** | 05/28/86 | |
| **FISCAL:** | Approp. | 2 |
| **CONSULTANT:** | Detwiler | 6 |
| | | 7 |
| | | 4 |

**Subject**: Brown Act

**Existing Law:**

The Ralph M. Brown Act requires local agencies' meetings to be open to the public. The Brown Act permits special meetings, emergency meetings, and closed sessions but only in specified circumstances.

I. **Advance Agendas**. State law requires community colleges and school districts' boards to post their agendas 48 hours before a regular meeting and 24 hours before a special meeting. The Bagley-Keene Open Meeting Act requires state bodies to provide notice of their meetings 10 days in advance. The meeting notice of a state body must include a specific agenda; the notice for an advisory body only needs to contain a "brief, general description" of the agenda items. These agencies cannot add items to their agendas after giving notice. Community college and school districts must permit the public to address their meetings.

**Assembly Bill 2674** requires local agencies' legislative bodies to post their agendas 72 hours before their regular meetings. The agendas must contain a brief general description of each item and specify the time and location of the meeting. AB 2674 prohibits a local agency from acting on an item unless it appears on its posted agenda, with three exceptions:

1. In an emergency situation, as defined.
2. On a 2/3 vote of the legislative body or a unanimous vote if less than 2/3 of the members are present.
3. The item was properly posted but continued from an earlier meeting held five or fewer days before.

AB 2674 also requires local agencies' agendas to provide an opportunity for the public to directly address the legislative body on "items of interest to the public and within the subject matter jurisdiction of the legislative body." However, the legislative body cannot act on an item unless it was noticed on the agenda. The bill permits the legislative body to adopt reasonable regulations, including time limits, to carry out the intent of this new requirement.

Further, AB 2674 requires community college and school districts' boards to conform to these agenda requirements, increasing the required time for posting from 48 hours to 72 hours but permitting them to add agenda items, as specified.

II. **Enforcement.** The Bagley-Keene Act permits an individual to file a lawsuit declaring a state body's decision "null and void" because it did not comply with the Act's open meeting requirements. A suit must be filed within 30 days of the state body's action. But a court cannot invalidate certain types of decisions, even if they were improper. A court can award attorney's fees to successful plaintiffs (AB 214, Connelly, 1985).

**Assembly Bill 2674** permits an individual to file a lawsuit declaring a decision of a local legislative body, a school district, or a community college district "null and void" because agency did not comply with the requirements for open meetings and public notice. Within 30 days of the decision, the individual must demand that the legislative body correct its action. The legislative body has another 30 days to inform the individual how it corrected its action or that it has decided not to correct its action. The individual then has 15 days (or 75 days from the initial complaint) to file the lawsuit.

The bill prohibits the invalidation of a legislative body's action which violated the Brown Act if the action:

1. Was "in substantial compliance" with the Act's open meeting and public notice requirements.
2. Was related to the sale or issuance of bonds or other indebtedness.
3. Created a contractual obligation which was relied on in good faith.
4. Was related to tax collection.

The court must dismiss the suit if the local agency, school district, or community college district later corrects its action. Corrective action is not evidence of Brown Act violation.

III. **Special Meetings.** Current law permits local agencies, school districts, and community college districts to hold special meetings if they notify the members of the legislative body and the media in writing. The notice must be received 24 hours before the special meeting. The notice must contain the time and place of the meeting and the business to be transacted. **Assembly Bill 2674** requires these agencies to post their notices of special meetings 24 hours in advance.

**IV. Emergency Meetings.** In defined "emergency situations," the Brown Act permits local agencies to hold emergency meetings without giving the 24-hour written notices required for special meetings. **Assembly Bill 2674** also exempts local agencies from having to post notices for emergency meetings.

**Comments:**

1. The public's right to know. In adopting the Brown Act, the Legislature declared that people have a right to be informed about their local agencies' decisions. Some observers point to the lack of advance agendas as a serious obstacle to the public's ability to follow their local officials' actions. Others believe that the absence of ways to challenge illegal meetings means that local officials cannot be stopped from violating the Brown Act. AB 2674 responds to these two criticisms by requiring agendas in advance and by permitting the courts to declare illegal decisions void.

2. Good for the goose? State agencies have had to provide agendas for their meetings since 1967. School districts and community college districts have faced similar requirement since at least 1976. State law does not require counties, cities, and special districts to provide the public with agendas in advance of their meetings. Last year, the Legislature permitted courts to strike down state agencies' decisions that violated the open meeting and public notice laws. Under current law, a local decision made in violation of the Brown Act is not void. AB 2674 applies the agenda requirement to local agencies for the first time. Further, the bill creates a procedure for the courts to void illegal local decisions.

3. Public comment requirement. AB 2674 requires every county, city, and special district to set aside time on its regular meeting agenda to hear from members of the the public. The bill qualifies this requirement in three ways: the topics must be "within the subject matter jurisdiction of the legislative body;" the legislative body cannot act unless the item was already on its agenda or was properly added to the agenda; and the legislative body can adopt regulations governing these public comment periods. The Committee may wish to consider whether the requirement for public comment will unnecessarily slow down local agencies' meetings. The Committee may also wish to consider whether the bill gives local officials sufficient control over public comment periods without stifling their intent.

4. Effect on schools and community colleges. AB 2674 affects school districts and community college districts, not just coun-

ties, cities, and special districts. The bill lengthens their posting requirements for regular meetings from 48 hours to 72 hours, but it also provides a new procedure for adding items to their agendas. In addition, AB 2674 creates a new statutory procedure for challenging school district and community college districts decisions which are made in violation of open meeting and public notice requirements.

5. New state mandate, Legislature must pay. AB 2674 creates new state mandated local programs by requiring local agencies to post descriptive agendas of their regular meetings, set aside time at their regular meetings to hear public comments, and to post notices of special meetings. The bill also requires school districts to post their agendas a day earlier than required by current law. While these costs may be minor for each affected agency, their cumulative costs may be substantial given that there are 58 counties, 441 cities, 1,034 school districts, and nearly 5,000 special districts and other miscellaneous agencies. AB 2674 directs local and school officials to file claims for any new local costs with the Commission on State Mandates.

6. Technical amendments needed. The Brown Act currently requires local officials to give written notice of their special meetings; specifically, the time, place, and "the business to be transacted." Additionally, AB 2674 requires them to post notice of the time and location, but does not require local officials to post the agenda of items to be discussed. The Committee may wish to consider an amendment which requires local agencies to post for the public all of the information they are already required to provide to the media.

**Support and Opposition:** (05/22/86)

Support: Attorney General, League of Women Voters, California Taxpayers Association, California State PTA, Common Cause, California Freedom of Information Committee, California Grocers Association, Planning and Conservation League, Sonoma County Taxpayers Association, Peace Officers Research Association of California, American Civil Liberties Union, California District Attorneys Association, School Legal Services, District Attorneys of Alameda, Los Angeles, and San Joaquin counties.

Opposition: Association of California Water Agencies, California Association of Sanitation Agencies, County Clerks Association, Amador County Water Agency, Jackson Valley Irrigation District, Barron Park Association, City of Los Angeles.

# NO ANALYSIS REQUIRED

Analyst: Daniel Buntjer
Bus. Ph: 445-4216
Home Ph:

| Department | Bill Number/Author: |
|---|---|
| CONSUMER AFFAIRS | AB 2674/Connelly |
| **Agency** | **Date Last Amended:** |
| STATE AND CONSUMER SERVICES | 6-4-86 |

1. ☐ - Analysis not required of this bill. Not within the scope of responsibility of this department.

2. ☐ - Bill of minor significance. No analysis required at this time. See comments below.

3. ☐ - Technical bill -- no program or fiscal changes to existing program.

4. ☐ - Bill as amended no longer within scope of responsibility or program of this department and should be reviewed for reassignment to another department.

5. ☒ - Minor or technical amendment. Previously submitted analysis still valid. Previously ☐ recommended ☒ approved position is SUPPORT. See comments below.

6. ☐ - WATCH -- Analysis not required at this time, but bill's progress will be monitored. See comments below.

COMMENTS:

**The amendments to the Education and Government Codes, made on June 4, 1986, are technical in nature as they concern agenda requirements for local legislative bodies in specified situations.**

OK per 7/28

Support

| Department Director | Date | Agency Secretary | Date |
|---|---|---|---|
| Marie Shibuya Ames | 6/24/86 | Original signed by [illegible] MORGAN Legislative Coordinator | JUN 25 1986 |

900-8 (Rev. 1/84)

State of California—Health and Welfare Agency

Department of Mental Health

**NO ANALYSIS REQUIRED**

MH 39 (7/81)

| Department | Bill Number |
|---|---|
| Mental Health | AB 2674 |
| **Agency** | **Date Last Amended** |
| Health and Welfare | 6/4/86 |

☐ Analysis is not required of this bill – Not within scope of responsibility of this department.

☐ Technical Bill – No program or fiscal changes to existing program.

☐ Bill as amended no longer within scope of responsibility or program of the department and should be reviewed for reassignment to another department.

☐ Technical Amendment – No change in previously submitted analysis required.
Approved position of prior analysis is _____.

☐ Minor Amendment – Previously submitted analysis still valid. Previously approved position is _____.

☒ Minor Amendment – No change in approved position of Neutral.
See comments below.

Comments:

This bill, as amended, would relieve a city council or board of supervisors of their obligation to provide members of the public an opportunity to address the council or board on a particular agenda item provided:

1) It has already been considered by a committee, composed exclusively of members of the council or board at a public meeting,

2) The public was afforded the opportunity to address the committee on the item,

3) The item has not been substantially changed since the committee heard it, as determined by the council or board.

ORIGINAL SIGNED ON

| Department Director | Date | Agency Secretary | Date |
|---|---|---|---|
| | 6-27- | JUN 26 1986 Sandra L. Shewry | |

ARC - 39b

CONCURRENCE IN SENATE AMENDMENTS

AB 2674 (Connelly) - As Amended: June 4, 1986

ASSEMBLY VOTE 69-4 ( April 14, 1986 ) SENATE VOTE 37-0 ( July 3, 1986 )

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.

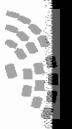
- continued -

The Senate amendments generally apply the above provisions to school and community college district boards, as well as local legislative bodies.

FISCAL EFFECT

The bill creates a state-mandated local program by requiring local agencies and school and community college districts to comply with stricter notification and public testimony requirements. The costs of this mandate probably would be minor.





Lyle Defenbaugh
445-6034
7/7/86:algov

ASSEMBLY LOCAL GOVERNMENT COMMITTEE
REPUBLICAN ANALYSIS

AB 2674 (Connelly) -- OPEN MEETINGS:LOCAL AGENCIES
Version: 6/4/86 Vice-Chairman: Bill Lancaster
Recommendation: Supportable. Vote: Majority

Summary: Amends the Ralph M. Brown Open Meeting Act and the Education Code to strengthen the laws requiring open meetings. The most significant change is allowing interested citizens to commence an action within 30 days to have any government action in violation of the open meeting laws declared "null and void". Authorizes the award of reasonable attorneys fees in "null and void" law suits. Makes numerous other less controversial changes. Fiscal effect: Unknown, possibly significant, state costs for reimbursement of "reasonable attorneys fees" and for required mailed and published notices.

Supported by: Common Cause (sponsor); Cal-Tax, Attorney General, CA District Attorneys Assn. , Counties of L.A., Alameda, San Joaquin, PORAC, Sierra Club, Schools Legal Services (80 school agencies), League of Women Voters, CA State PTA, CA State Freedom of Information Committee, CA Grocers Assn., CA Society of Newspaper Editors, Dept of Consumer Affairs, CA School Boards Assn, Community College Facility Assn. Opposed by: CA Assn. of Sanitation Agencies, San Mateo County Council of Mayors, City of San Diego. Neutral: Cities of L.A. and 33 others, Assoc. of CA Water Agencies, Dept of Finance, Youthful Offender Parole Board, Dept of Mental Health. Governor's position: None.

Comments: Introduced in response to a vote of the Los Angeles City Council on an agenda item #53, later revealed as a salary increase for the council and other city officers. Proponents state that, although the Brown Act has enforcement/penalties related to behind-the-scenes meetings, the Act has no teeth regarding (unannounced) special agenda items.

Opponents claim that the 30 day "null and void" period would create a cloud over all actions taken by local agencies and would delay enacting these actions for 30 days. They also stress that the public would be able to add agenda items after the agenda has been set which could cause a council's/staff's workload to be greatly burdened.

Assembly Republican Floor Vote
Floor (69-4) Ayes: All other Reps present
Noes: Lancaster, Wright
Senate Republican Floor Vote -- 7/3/86
(37-0) Ayes: All Republicans present
Consultant: Tracy Morgan

# EXHIBIT K

LPA 5-0
to amend

SENATE LOCAL GOVERNMENT COMMITTEE
Senator Marian Bergeson, Chairman

Assembly Bill 2674 - Connelly

| | | |
|---|---|---|
| VERSION: | 05/22/86 | A |
| SET: | First | B |
| HEARING: | 05/28/86 | |
| FISCAL: | Approp. | 2 |
| CONSULTANT: | Detwiler | 6 |
| | | 7 |
| | | 4 |

Subject: Brown Act

Existing Law:

The Ralph M. Brown Act requires local agencies' meetings to be open to the public. The Brown Act permits special meetings, emergency meetings, and closed sessions but only in specified circumstances.

I. Advance Agendas. State law requires community colleges and school districts' boards to post their agendas 48 hours before a regular meeting and 24 hours before a special meeting. The Bagley-Keene Open Meeting Act requires state bodies to provide notice of their meetings 10 days in advance. The meeting notice of a state body must include a specific agenda; the notice for an advisory body only needs to contain a "brief, general description" of the agenda items. These agencies cannot add items to their agendas after giving notice. Community college and school districts must permit the public to address their meetings.

Assembly Bill 2674 requires local agencies' legislative bodies to post their agendas 72 hours before their regular meetings. The agendas must contain a brief general description of each item and specify the time and location of the meeting. AB 2674 prohibits a local agency from acting on an item unless it appears on its posted agenda, with three exceptions:

1. In an emergency situation, as defined.
2. On a 2/3 vote of the legislative body or a unanimous vote if less than 2/3 of the members are present.
3. The item was properly posted but continued from an earlier meeting held five or fewer days before.

AB 2674 also requires local agencies' agendas to provide an opportunity for the public to directly address the legislative body on "items of interest to the public and within the subject matter jurisdiction of the legislative body." However, the legislative body cannot act on an item unless it was noticed on the agenda. The bill permits the legislative body to adopt reasonable regulations, including time limits, to carry out the intent of this new requirement.

Further, AB 2674 requires community college and school districts' boards to conform to these agenda requirements, increasing the required time for posting from 48 hours to 72 hours but permitting them to add agenda items, as specified.

II. Enforcement. The Bagley-Keene Act permits an individual to file a lawsuit declaring a state body's decision "null and void" because it did not comply with the Act's open meeting requirements. A suit must be filed within 30 days of the state body's action. But a court cannot invalidate certain types of decisions, even if they were improper. A court can award attorney's fees to successful plaintiffs (AB 214, Connelly, 1985).

**Assembly Bill 2674** permits an individual to file a lawsuit declaring a decision of a local legislative body, a school district, or a community college district "null and void" because agency did not comply with the requirements for open meetings and public notice. Within 30 days of the decision, the individual must demand that the legislative body correct its action. The legislative body has another 30 days to inform the individual how it corrected its action or that it has decided not to correct its action. The individual then has 15 days (or 75 days from the initial complaint) to file the lawsuit.

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1. Was "in substantial compliance" with the Act's open meeting and public notice requirements.
2. Was related to the sale or issuance of bonds or other indebtedness.
3. Created a contractual obligation which was relied on in good faith.
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The court must dismiss the suit if the local agency, school district, or community college district later corrects its action. Corrective action is not evidence of Brown Act violation.

III. Special Meetings. Current law permits local agencies, school districts, and community college districts to hold special meetings if they notify the members of the legislative body and the media in writing. The notice must be received 24 hours before the special meeting. The notice must contain the time and place of the meeting and the business to be transacted. **Assembly Bill 2674** requires these agencies to post their notices of special meetings 24 hours in advance.

IV. Emergency Meetings. In defined "emergency situations," the Brown Act permits local agencies to hold emergency meetings without giving the 24-hour written notices required for special meetings. **Assembly Bill 2674** also exempts local agencies from having to post notices for emergency meetings.

Comments:

1. The public's right to know. In adopting the Brown Act, the Legislature declared that people have a right to be informed about their local agencies' decisions. Some observers point to the lack of advance agendas as a serious obstacle to the public's ability to follow their local officials' actions. Others believe that the absence of ways to challenge illegal meetings means that local officials cannot be stopped from violating the Brown Act. AB 2674 responds to these two criticisms by requiring agendas in advance and by permitting the courts to declare illegal decisions void.

2. Good for the goose? State agencies have had to provide agendas for their meetings since 1967. School districts and community college districts have faced similar requirement since at least 1976. State law does not require counties, cities, and special districts to provide the public with agendas in advance of their meetings. Last year, the Legislature permitted courts to strike down state agencies' decisions that violated the open meeting and public notice laws. Under current law, a local decision made in violation of the Brown Act is not void. AB 2674 applies the agenda requirement to local agencies for the first time. Further, the bill creates a procedure for the courts to void illegal local decisions.

3. Public comment requirement. AB 2674 requires every county, city, and special district to set aside time on its regular meeting agenda to hear from members of the the public. The bill qualifies this requirement in three ways: the topics must be "within the subject matter jurisdiction of the legislative body;" the legislative body cannot act unless the item was already on its agenda or was properly added to the agenda; and the legislative body can adopt regulations governing these public comment periods. The Committee may wish to consider whether the requirement for public comment will unnecessarily slow down local agencies' meetings. The Committee may also wish to consider whether the bill gives local officials sufficient control over public comment periods without stifling their intent.

4. Effect on schools and community colleges. AB 2674 affects school districts and community college districts, not just coun-

ties, cities, and special districts. The bill lengthens their posting requirements for regular meetings from 48 hours to 72 hours, but it also provides a new procedure for adding items to their agendas. In addition, AB 2674 creates a new statutory procedure for challenging school district and community college districts decisions which are made in violation of open meeting and public notice requirements.

5. New state mandate, Legislature must pay. AB 2674 creates new state mandated local programs by requiring local agencies to post descriptive agendas of their regular meetings, set aside time at their regular meetings to hear public comments, and to post notices of special meetings. The bill also requires school districts to post their agendas a day earlier than required by current law. While these costs may be minor for each affected agency, their cumulative costs may be substantial given that there are 58 counties, 441 cities, 1,034 school districts, and nearly 5,000 special districts and other miscellaneous agencies. AB 2674 directs local and school officials to file claims for any new local costs with the Commission on State Mandates.

6. Technical amendments needed. The Brown Act currently requires local officials to give written notice of their special meetings; specifically, the time, place, and "the business to be transacted." Additionally, AB 2674 requires them to post notice of the time and location, but does not require local officials to post the agenda of items to be discussed. The Committee may wish to consider an amendment which requires local agencies to post for the public all of the information they are already required to provide to the media.

Support and Opposition: (05/22/86)

Support: Attorney General, League of Women Voters, California Taxpayers Association, California State PTA, Common Cause, California Freedom of Information Committee, California Grocers Association, Planning and Conservation League, Sonoma County Taxpayers Association, Peace Officers Research Association of California, American Civil Liberties Union, California District Attorneys Association, School Legal Services, District Attorneys of Alameda, Los Angeles, and San Joaquin counties.

Opposition: Association of California Water Agencies, California Association of Sanitation Agencies, County Clerks Association, Amador County Water Agency, Jackson Valley Irrigation District, Barron Park Association, City of Los Angeles.

SENATE LOCAL GOVERNMENT COMMITTEE
Senator Marian Bergeson, Chairman

Assembly Bill 2674 - Connelly

| | | |
|---|---|---|
| VERSION: | 06/04/86 | A |
| SET: | First | B |
| HEARING: | 05/28/86 | |
| FISCAL: | Approp. | 2 |
| CONSULTANT: | Detwiler | 6 |
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Subject: Brown Act

Existing Law:

The Ralph M. Brown Act requires local agencies' meetings to be open to the public. The Brown Act permits special meetings, emergency meetings, and closed sessions but only in specified circumstances.

I. Advance Agendas. State law requires community colleges and school districts' boards to post their agendas 48 hours before a regular meeting and 24 hours before a special meeting. The Bagley-Keene Open Meeting Act requires state bodies to provide notice of their meetings 10 days in advance. The meeting notice of a state body must include a specific agenda; the notice for an advisory body only needs to contain a "brief, general description" of the agenda items. These agencies cannot add items to their agendas after giving notice. Community college and school districts must permit the public to address their meetings.

Assembly Bill 2674 requires local agencies' legislative bodies to post their agendas 72 hours before their regular meetings. The agendas must contain a brief general description of each item and specify the time and location of the meeting. AB 2674 prohibits a local agency from acting on an item unless it appears on its posted agenda, with three exceptions:

1. In an emergency situation, as defined.
2. On a 2/3 vote of the legislative body or a unanimous vote if less than 2/3 of the members are present.
3. The item was properly posted but continued from an earlier meeting held five or fewer days before.

AB 2674 also requires local agencies' agendas to provide an opportunity for the public to directly address the legislative body on "items of interest to the public and within the subject matter jurisdiction of the legislative body." However, the legislative body cannot act on an item unless it was noticed on the agenda. The bill permits the legislative body to adopt reasonable regulations, including time limits, to carry out the intent of this new requirement. Cities, including San Francisco need not provide for public comment on an item if a city council committee has already considered the item and provided an

opportunity for public comment. This exception does not apply if the item has "substantially changed" after the committee heard the item.

Further, AB 2674 requires community college and school districts' boards to conform to these agenda requirements, increasing the required time for posting from 48 hours to 72 hours but permitting them to add agenda items, as specified.

II. Enforcement. The Bagley-Keene Act permits an individual to file a lawsuit declaring a state body's decision "null and void" because it did not comply with the Act's open meeting requirements. A suit must be filed within 30 days of the state body's action. But a court cannot invalidate certain types of decisions, even if they were improper. A court can award attorney's fees to successful plaintiffs (AB 214, Connelly, 1985).

**Assembly Bill 2674** permits an individual to file a lawsuit declaring a decision of a local legislative body, a school district, or a community college district "null and void" because the agency did not comply with the requirements for open meetings and public notice. Within 30 days of the decision, the individual must demand that the legislative body correct its action. The legislative body has another 30 days to inform the individual how it corrected its action or that it has decided not to correct its action. The individual then has 15 days (or 75 days from the initial complaint) to file the lawsuit.

The bill prohibits the invalidation of a legislative body's action which violated the Brown Act if the action:

1. Was "in substantial compliance" with the Act's open meeting and public notice requirements.
2. Was related to the sale or issuance of bonds or other indebtedness.
3. Created a contractual obligation which was relied on in good faith.
4. Was related to tax collection.

The court must dismiss the suit if the local agency, school district, or community college district later corrects its action. Corrective action is not evidence of Brown Act violation.

III. Special Meetings. Current law permits local agencies, school districts, and community college districts to hold special meetings if they notify the members of the legislative body and the media in writing. The notice must be received 24 hours before the special meeting. The notice must contain the time and place of the meeting and the business to be transacted. **Assembly**

**Bill 2674** requires these agencies to post their notices of special meetings 24 hours in advance.

**IV.** Emergency Meetings. In defined "emergency situations," the Brown Act permits local agencies to hold emergency meetings without giving the 24-hour written notices required for special meetings. **Assembly Bill 2674** also exempts local agencies from having to post notices for emergency meetings.

Comments:

1. The public's right to know. In adopting the Brown Act, the Legislature declared that people have a right to be informed about their local agencies' decisions. Some observers point to the lack of advance agendas as a serious obstacle to the public's ability to follow their local officials' actions. Others believe that the absence of ways to challenge illegal meetings means that local officials cannot be stopped from violating the Brown Act. AB 2674 responds to these two criticisms by requiring agendas in advance and by permitting the courts to declare illegal decisions void.

2. Good for the goose? State agencies have had to provide agendas for their meetings since 1967. School districts and community college districts have faced similar requirements since at least 1976. State law does not require counties, cities, and special districts to provide the public with agendas in advance of their meetings. Last year, the Legislature permitted courts to strike down state agencies' decisions that violated the open meeting and public notice laws. Under current law, a local decision made in violation of the Brown Act is not void. AB 2674 applies the agenda requirement to local agencies for the first time. Further, the bill creates a procedure for the courts to void illegal local decisions.

3. Public comment requirement. AB 2674 requires every county, city, and special district to set aside time on its regular meeting agenda to hear from members of the public. The bill qualifies this requirement in three ways: the topics must be "within the subject matter jurisdiction of the legislative body;" the legislative body cannot act unless the item was already on its agenda or was properly added to the agenda; and the legislative body can adopt regulations governing these public comment periods. The Committee may wish to consider whether the requirement for public comment will unnecessarily slow down local agencies' meetings. The Committee may also wish to consider whether the bill gives local officials sufficient control over public comment periods without stifling their intent.

4. Effect on schools and community colleges. AB 2674 affects school districts and community college districts, not just counties, cities, and special districts. The bill lengthens their posting requirements for regular meetings from 48 hours to 72 hours, but it also provides a new procedure for adding items to their agendas. In addition, AB 2674 creates a new statutory procedure for challenging school district and community college districts decisions which are made in violation of open meeting and public notice requirements.

5. New state mandate, Legislature must pay. AB 2674 creates new state mandated local programs by requiring local agencies to post descriptive agendas of their regular meetings, set aside time at their regular meetings to hear public comments, and to post notices of special meetings. The bill also requires school districts to post their agendas a day earlier than required by current law. While these costs may be minor for each affected agency, their cumulative costs may be substantial given that there are 58 counties, 441 cities, 1,034 school districts, and nearly 5,000 special districts and other miscellaneous agencies. AB 2674 directs local and school officials to file claims for any new local costs with the Commission on State Mandates.

6. The June 4 amendments. The June 4 amendments reflect the changes made at the Committee's May 28 hearing. The principal change permits city councils to avoid public comment on items where the public has already had a chance to comment in a council committee. The Committee also accepted amendments which corrected a technical problem regarding the posting of notices and it added co-authors.

# EXHIBIT L

OFFICE
OF THE
MAYOR

G. STANTON SELBY
Mayor

City Hall, Pomona, California 91769

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.



SP-1

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



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# CITY CLERKS ASSOCIATION OF CALIFORNIA

March 10, 1986



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



SP-3

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



SP-4

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"



SP-5

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, Assembyman:

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

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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 constiuents 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

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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-Comittee 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.

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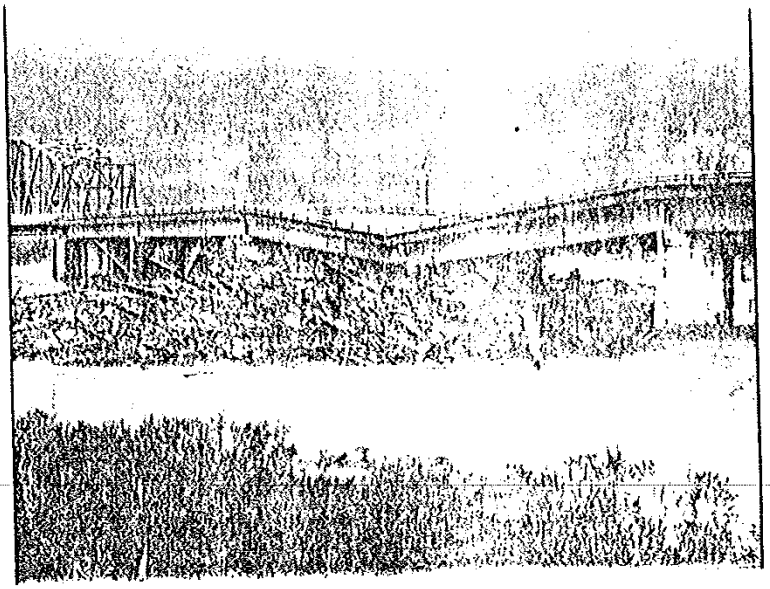
**...continues** — The ... that has paralyzed ... California hit hard ... Tuesday. Top, the ... River overflowed its ... and stranded the resort ... Guerneville. Right, ... engineers examine ... to the Mudget Memo... ...ge in Eureka, which ... traffic from Highway ...ebris pushed by the ...oving Eel River ...l out two spans. More ...xpected 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 people 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 under-wraps approach was a convenient way to keep the event from coming under public scru-

Please see CONCERT, Back Page this section



Enclosure #1

SP-9

# 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 a 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 Bogaard 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, Bogaard 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 McIntyre said Bogaard 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.





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Continued from Page A-1

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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.





SP-11

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 Racetrack 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.

the hospital.

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 Formusis 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 a cardiac arrest, with some complications related to having low 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.

# Board's action on rock concert raises questions

Editor at large

**CHARLES CHERNISS**

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 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.*

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SP-12

Enclosure # 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, 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 sa performers have not yet granted the r to make movies or records of perform 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.

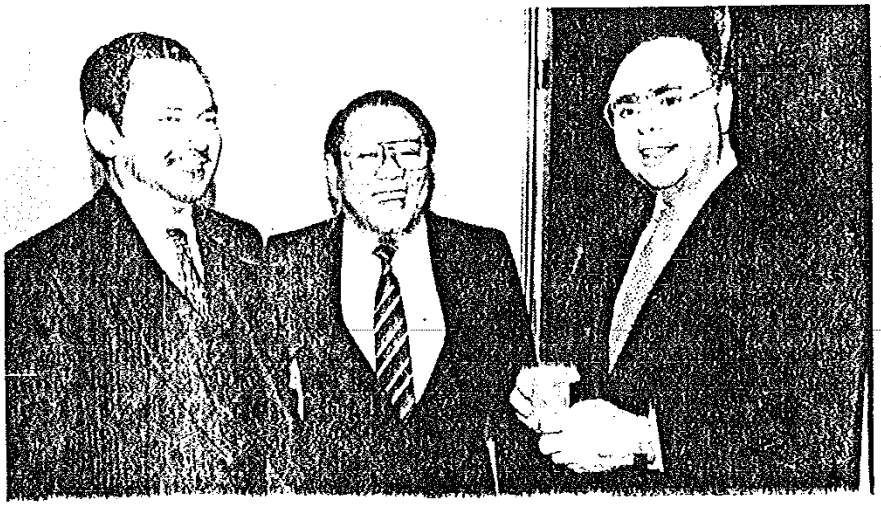

Photo by Jim Ruiz

## HONORING YOUR HONOR

Indonesian Consul General Poernyanto, Judge Dickran Tevrizian, and Ben Benniardi, president of Pempocal, got a moment to chat at a banquet honoring Tevrizian's recent appointment to the United States District Court at the Pasadena Armenian Center last Saturday night. Among those in attendance were Archbishop Datev Sarkissian, Primate of the Western Prelacy of the Armenian Apostolic Church of America; former Los Angeles County District Attorney Robert Philibosian; Justice Elwood Lui of the California Court of Appeal; Pasadena Mayor Bill Bogaard; and Congressman Carlos Moorhead. Judge Tevrizian, a long-time Pasadenan, formerly was with the law firm of Manatt, Phelps, Rothenberg, Tunney, and Phillips.



SP-13

Alleged killer 'wanted' to die

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 Kosticlney, 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.

SP-14

## 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 simpley 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.



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## 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.

SP-16

# 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





SP-17

*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

**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.



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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 committment 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.



SP-21

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 mchine 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.



SP-23

City Hall
Los Angeles, CA 90012
(213) 485-3811

Valley Office
18425 Burbank Boulevard
(818) 989-8150

West Los Angeles Office
1645 Corinth Avenue
(213) 312-8461


**Marvin Braude**
Councilman

City Council Committees:
Chairman, Building & Safety
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

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.



SP-23

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,



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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

SP-25

## Reporters' notebooks

### Los Angeles City Hall

# Council remains partial to hyper-speed legislation

By JOYCE PETERSON
and MARY ANN MILBOURN
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 addition, the push in the state legislature could come to above 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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"I used to think I had a good handle on what's 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 Ferraro was not amused at MALDEF's plan to achieve this goal by moving his Fourth District to East Los Angeles.

AB 2674

PROBLEMS AND ALTERNATIVE SOLUTIONS

| Bill Provision | Problem | Possible Alternatives |
|---|---|---|
| 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. |
| 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. |

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Sp 2-1

| | 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. |



cbab2674/leg

8c-38

# Assembly
# California Legislature

## Subcommittee on the Administration of Justice

1100 J STREET, FIFTH FLOOR
SACRAMENTO 95814
TELEPHONE (916) 324-7593

LETTIE YOUNG
COUNSEL

ROSEMARY SANCHEZ
SECRETARY

LLOYD G. CONNELLY
CHAIRPERSON

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.



ep.29

# Assembly
# California Legislature

## Subcommittee on the Administration of Justice

LLOYD G. CONNELLY
CHAIRPERSON

1100 J STREET, FIFTH FLOOR
SACRAMENTO 95814
TELEPHONE (916) 324-7593

LETTIE YOUNG
COUNSEL

ROSEMARY SANCHEZ
SECRETARY

To: Deputy Legislative Counsel M. Upson

From: Gene Erbin

Subject: Amendments to AB 2674

Date: March 5, 1986

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.



SP-30

March 3, 1986

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

Dear Chairman Cortese,

I urge you to support AB 2674 in the efforts of Assembly members Lloyd Connelly and Ross Johnson to put some teeth in the Brown Act.

As the first act of the 1985 newly sworn in Board of Supervisors of Nevada County the popular 11-year veteran Director of Public Works was dismissed. Later three of the supervisors admitted the decision had been made while attending a Conference of Supervisors in San Diego in December, 1984, prior to taking their oath of office. The concern with this action is if the three supervisors had not taken the oath of office they were not technically office holders but were attending a function wholly funded by public funds. Secondly, as non-office holders these three newly elected candidates should not be privileged to examine personnel files of the Director, therefore, should not have had the information necessary for the dismissal conclusion. The public outrage was expressed in the "Letters to the Editor" of the Union newspaper for such a long period of time that finally they were no longer accepted by the Union.

The Editor of the Union and the Grand Jury has accused the Board of Supervisors of Brown Act violations and yet there appears to be insufficient reason for the District Attorney to take action, after all it is they who approve the budget for all departments including the Grand Jury and District Attorney.

I am sure that this committee will receive many letters from the Boards of Supervisors in opposition to AB 2674. It would be a true test of the effectiveness of the present Brown Act to determine how many boards, placed the question of effectiveness of the Brown Act on the agenda, and accepted public input prior to taking action in support or opposition of AB 2674.



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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

"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



SP-32

LEAGUE OF WOMEN VOTERS OF CALIFORNIA

926 J St., Suite 1000, Sacramento, CA 95814 • (916) 442-7215

**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.



3/86 SO

SP-33

Cal-Tax
CALIFORNIA
TAXPAYERS'
ASSOCIATION
SUITE 800 · 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



SP-34

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



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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 for bw

ALLEN SUMNER
Senior Assistant Attorney General
(916) 324-5477

AS:lb



SP-36

Robinita 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).

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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.



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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.



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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

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.



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**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.





*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

SP-41

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 expection 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



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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



SP-43

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 it 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

GA/vf

City Hall · 1400 Highland Avenue, Manhattan Beach, California 90266 · (213) 545-5621

SP-44

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE

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(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



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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



SP-46

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 avaialbe 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.

Very truly yours,

DAPHNE L. MACKLIN
Legislative Advocate

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. Egri, 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

SP-47

Cal-Tax
CALIFORNIA
TAXPAYERS'
ASSOCIATION
SUITE 800 · 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



SP-48

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

SP-49

"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



SP-50

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.

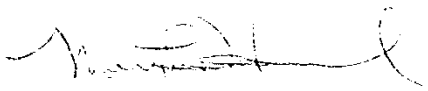
SP-51



CITY HALL • 275 EAST OLIVE AVENUE • POST OFFICE BOX 6459 • BURBANK, CALIFORNIA 91510 • TELEPHONE (818) 953-9708

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,

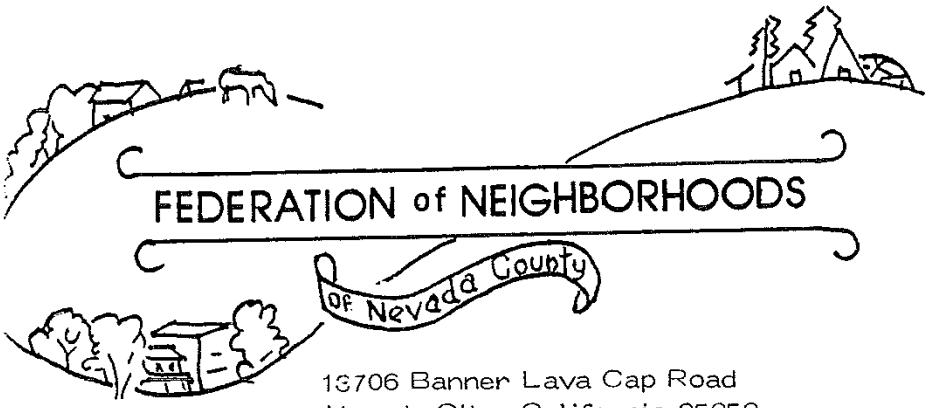


Mary Lou Howard
Mayor

mc



sp.58




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



SP-53

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 Herger
1521 Butte House Road, Suite C
Yuba City, Ca. 95991

SP-54

# 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) 387-2017

1535 MISSION STREET
SAN FRANCISCO, CA 94103
(415) 864-3060

SP-55

CITY OF SAN JOSE, CALIFORNIA

801 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95110
(408) 277-4000

CITY MANAGER

March 7, 1986

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

ROXANNE L. MILLER-MOSLEY
Legislative Representative

RLM/kh
cc: Assembly Member Dominic Cortese



3P-56

# 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

SP-57

CITY OF DOWNEY JS
11111 BROOKSHIRE AVE
DOWNEY CA 90241-8016 10AM

Western Union Mailgram

4-046053S069 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

MGMCOMP





SP-58

western union **Telegram**

M SZA006(1337)(1-008651A069)PD 03/10/86 1337
ICS IPMRYNP RNO
02181 RENO NV 03-10 1031A PST RYNO
ICS IPMSZ04
4-02064350069 03/10/86
ICS IPMRNCZ CSP
7146244531 TDRN CLAREMONT CA 85 03-10 0129P EST
PMS ASSEMBLYMAN DOMINIC CORTESE, CHAIRMAN
LOCAL GOVERNMENT COMMITTEE RPT DLY MGM, DLR
STATE CAPITOL REPORT DELIVERY
SACRAMENTO CA 95814
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

W.U. 1201-SF (R5-69)

western union **Telegram**

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
ENID H DOUGLASS, MAYOR
CITY OF CLAREMONT
207 HARVARD AVE
CLAREMONT CA 91711

1331 EST
NNNN



SP-59

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



SP-60

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.



SP-61

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 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

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

LLOYD G. CONNELLY
MEMBER OF THE LEGISLATURE
SIXTH ASSEMBLY DISTRICT

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

SUBCOMMITTEES
CHAIR, ADMINISTRATION OF
JUSTICE
STATE ADMINISTRATION
HEALTH & WELFARE

March 11, 1986

**The following newspapers have published editorials suppporting AB 2674:**

LOS ANGELES TIMES
SAN JOSE MERCURY NEWS
ORANGE COUNTY REGISTER
THE SACRAMENTO UNION
THE SACRAMENTO BEE
THE BAKERSFIELD CALIFORNIAN
THE TEHACHAPI NEWS
THE FRESNO BEE
OAKDALE LEADER
VISALIA TIMES DELTA
THE OCEANSIDE BLADE TRIBUNE
THE ESCONDIDO TIMES-ADVOCATE
LONG BEACH PRESS-TELEGRAM
THE OAKLAND TRIBUNE
THE SAN MATEO TIMES
SALINAS CALIFORNIAN
VAN NUYS DAILY NEWS
BELVEDERE CITIZEN
SANTA BARBARA NEWS-PRESS
THE UNION (Grass Valley-Nevada City)



SP-63

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. SHAFFER, *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.



SP-64

Visalia, CA
(Tulare Co.)
Times Delta
(Clr. 6xW. 20,137)

FEB 3 - 1986

Allen's P. C. B Est. 1888

# Open meeting bill a must

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 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.



SP65

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*
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WILLIAM A. OTT
*President and Publisher*



# 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.



SP-160

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.



SP67

JANUARY 30, 1986

PRESS-TELEGRAM

604 Pine Avenue, Long Beach, California 90844 / Telephone 435-1161



# 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.



SP-608

THE TRIBUNE

*An independent newspaper serving the Greater Bay Area from Oakland since 1874*



**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.



SP-69

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



# A remedy to secrecy

Last year, the Legislature moved halfway 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.



SP-70

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

JAN 2 0 1986

Allen's P. C. B Est. 1888

Editorials

60

# 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.



SP-71

Fresno, CA
(Fresno Co.)
Bee
(Clr. D. 129,955)
(Clr. S. 152,301)



# A cure for sneaky government

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 t post agendas for all regular and speci meetings and to prohibit action on any ite not on the agenda. Such requirements a ready exist for school boards, communi college boards and state bodies.

And to put teeth into the Brown Act, t new legislation would also authorize priva citizens and groups to sue local agencies th try to hide their actions. The courts would given the authority to declare null and vo actions taken without proper notice or illegally closed local meetings. The Legis ture last year passed a similar provision plying to state agencies.

Open meetings are vital to free gove ment. But open meetings, by themselves, not enough if local officials can obscure th actions. By removing the shadows wh timid local governments now hide from p lic controversy, AB 2674 would strike a b for accountability and responsiveness.



SP-72

**The Sacramento Bee**

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**Volume 258—No. 42,836**
**Monday, January 27, 1986**

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GREGORY E. FAVRE, *executive editor*
PETER SCHRAG, *editorial page editor*
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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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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.



SP-73

Oakdale, CA
(Stanislaus Co.)
Leader
(Cir. W. 4,717)

FEB 5 - 1986

Allen's P. C. B Est. 188

## Our Opinion

# 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 caledar 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 goverments 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 to 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 as illegal. The Johnson-Connelly bill is long overdue and certainly needed.



SP-74

# Support for reform

Bakersfield, CA
(Kern Co.)
Californian
(Cir. D. 66,867)
(Cir. S. 74,843)

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, commmunity 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 flexibilty 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."



SP-75

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 discusssion 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.



SP-76

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.



SP-77

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 suposedly 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.



SP.78

OCEANSIDE BLADE TRIBUNE - SAN DIEGO COUNTY

18 — Blade-Tribune Sunday, March 2, 1986

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 2674 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-Keene 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 Rolin — 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 2674 would do so.

A more outrageous example of voting on off-agenda items occured 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 2674. 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 2674 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 2674.

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 467-5775.

It's time the state's public bodies were made fully accountable to the public, and bring an end to the continuing violations to the state's open meeting laws.



SP-79

Editorials

Times-Advocate

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March 7, 1986

# 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 5, 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 the in Brown Act through which the L.A. council slithered.

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 Frazee, 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.



SP-80

FEB 18 1986

The Times

SAN MATEO TIMES AND DAILY NEWS LEADER
THE ADVANCE STAR

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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.



SP-81

Unsigned columns are the opinions of The Union. Signed columns and cartoons are the opinions of the authors.

## *The Union's Opinion*

# 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.

THE PLANNING AND CONSERVATION LEAGUE

PCL

909 12TH ST., SUITE 203 • SACRAMENTO, CA 95814 • (916) 444-8726

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



SP-83

**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.





*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

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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 expection 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

SP-85

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



SP-86

# TOWN OF PARADISE

5555 SKYWAY
PARADISE, CALIFORNIA 95969
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



SP-87

# 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



SP-88

CITY OF MILLBRAE
621 MAGNOLIA
MILLBRAE CA 94030 24PM

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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



SP-89

California
Grocers
Association

1400 K Street
Suite 208
Sacramento
CA 95814

P.O. Box 160907
Sacramento
CA 95816

916 448-3545



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



SP-90

PALO ALTO CIVIC LEAGUE

March 22, 1988

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 unamiously 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 agendized 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 agendized 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.



SP 91

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 Assembleyman Lloyd G. Connelly
Palo Alto City Council
Honorable Senator Becky Morgan



SP-92

orange county division
league of california cities
412 WEST 4TH STREET, SUITE 203, SANTA ANA, CALIFORNIA 92701 (714) 972-0077



March 26, 1986

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 Hart

Evelyn R. Hart
President
Council Member, Newport Beach



SP-93

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 ammending 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 agendize 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.



SP.94 M

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,

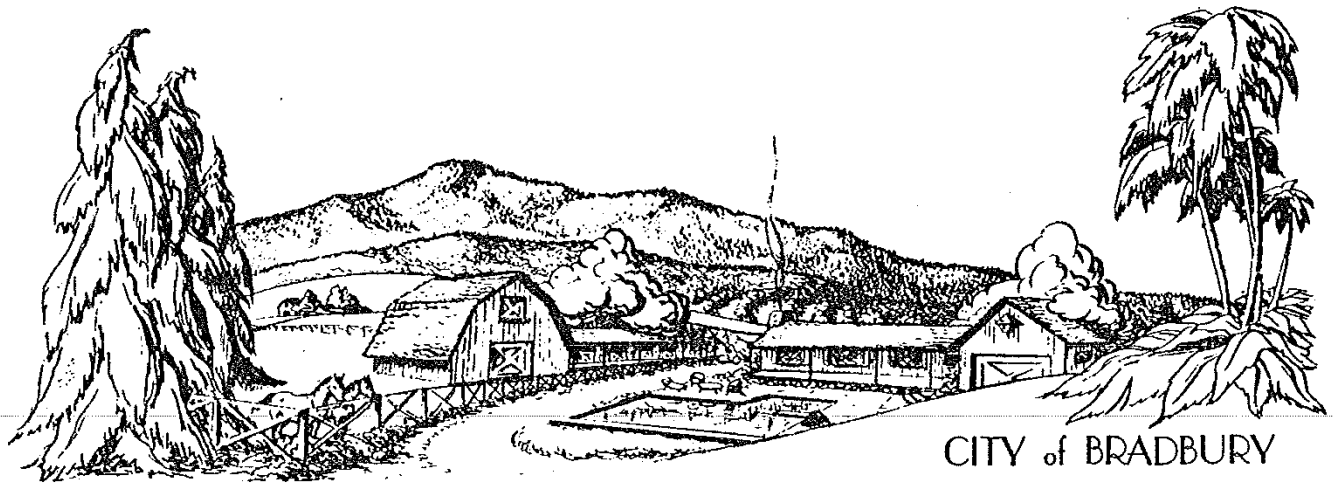
CHRISTINE E. REED
MAYOR

cc: Council

CER:mj



SP-95



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 severly 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

SP-96

csne

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)

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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 Opotowsky
Chairman
Freedom of Information
Committee

MO/bc

cc: Assemblyman Lloyd Connelly
Judith Epstein, Crosby, Heafey, Roach and May
Steve McNamara, Pacific Sun



Contact: Mel Opotowsky, Managing Editor, The Press-Enterprise,
P. O. Box 792, Riverside, California 92502

SP-98

# 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

Gary Hernandez
Vice Mayor

GH:mc



SP-99

OFFICE OF THE MAYOR
SAN FRANCISCO

DIANNE FEINSTEIN

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

SP.100

California
Grocers
Association

1400 K Street
Suite 208
Sacramento
CA 95814

P.O. Box 160907
Sacramento
CA 95816

916 448-3545



*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



SP-101

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



SP-1024

Inglewood California

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



OFFICE OF
**DANIEL K. TABOR**
COUNCILMAN, DISTRICT NO. 1

CITY HALL: 213/412-5320
RESIDENCE: 213/779-2601

SP-103

An Informed Electorate Equals Responsive Government

# 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.

SP-104

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



SP-105

CITY of SARATOGA
13777 FRUITVALE AVENUE • SARATOGA, CALIFORNIA 95070
(408) 867-3438



March 4, 1986

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

Dear Assemblyman Cortese:

Subject: AB2674 (Connelly)

The City Council of the City of Saratoga is greatly concerned about the chilling effects the passage of AB2674 would have on the ability of the City Council to conduct its public business. After reviewing the provisions of the bill supplied to us by the League of Cities, we cannot find a single one with which we are in agreement.

This City is very sensitive to the issue of keeping the public informed as to the agenda of the City Council. Full agendas are prepared and made public five days before any City Council meeting. In addition, it is our local policy to require a public hearing on all proposed ordinances of the City, whether required by State law or not.

To restrict the Council's ability to discuss issues which have only been previously formally agendized, when we meet only twice a month, is an unreasonable burden. For example, being able to take and communicate a position on pending State legislation or an oral communication item brought to our attention by a citizen in a timely manner would be effectively destroyed. Conversely, to have the Council agenda placed outside of the control of the City Council by requiring that any item requested by any citizen must be placed on the agenda, whether it had anything to do with City business or not, would severely impact the Council's responsibility, as the elected representatives of the people, to devote its time to the business it believes is the most important for the City. Certainly the State Legislature could not function under such constraints, and we would have no desire to see such a situation imposed upon the Legislature.

For all of the above reasons, we urge you, as the Chair of the Assembly Local Government Committee, to defeat AB2674 when it comes before you for hearing on March 11, 1986.

For the City Council,

Martha Clevenger

Martha Clevenger, Mayor

jm
cc: City Council
League of California Cities

SP-106

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



SP-107

MICHAEL F. DILLON
& ASSOCIATES INC.
PARK EXECUTIVE BUILDING • 925 L STREET • SUITE 600
SACRAMENTO, CALIFORNIA 95814 • (916) 448-2196

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



SP-108

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

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



SP-109 A

March 28, 1986

Assemblyman Dominic L. Cortese
Rm 6031 State Capitol
Sacramento, Ca. 95814

Dear Sir:

We are writing to strongly urge your vote in favor of the Consent Bill AB2674, being acted upon in your committee on April 1, 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 frequently 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.

Given this kind of cavalier attitude toward concerned citizens of the community exists, local government must in 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,

SP. 110

Edward L. Hansen
Dorothy V. Hansen
10113 Heritage Dr.
Nevada City, Ca. 95959

# 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



SP-111

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



SP-118

# 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 official 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.



SP-113

**STATE HEADQUARTERS**

926 J STREET, STE. 910
SACRAMENTO, CA 95814
(916) 443-1792

636 SO. HOBART BLVD., STE. 226
LOS ANGELES, CA 90005
(213) 387-2017

1535 MISSION STREET
SAN FRANCISCO, CA 94103
(415) 864-3060

**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 publics 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 efidences of indebtedness.

6- Nothing has a more chilling effect on the local government process than the publics 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.



sp-114

# 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. Simon

NATHAN A. "NAT" SIMON
Mayor

NAS:HG:jm



8353 SIERRA AVENUE (P. O. BOX 548) FONTANA, CALIFORNIA 92335 (714) 350-7600
SISTER CITY KAMLOOPS, B.C. CANADA

SP-115

BARBARA S. BLINDERMAN
ATTORNEY AT LAW
315 SOUTH BEVERLY DRIVE, SUITE 406
BEVERLY HILLS, CALIFORNIA 90212

(213) 557-9991
(213) 557-9992

BARBARA S. BLINDERMAN
ELLIOTT E. BLINDERMAN
COUNSEL TO THE FIRM

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

BARBARA S. BLINDERMAN

BSB:flg
cc: See Attachments



SP-116

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



SP-117


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

SP-118

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."



SP-119

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 committment 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.



SP-120

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 mchine 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.



SP-121

City Hall
Los Angeles, CA 90012
(213) 485-3811

Valley Office
18425 Burbank Boulevard
(818) 989-8150

West Los Angeles Office
1645 Corinth Avenue
(213) 312-8461

**Marvin Braude**
Councilman

City Council Committees:
Chairman, Building & Safety
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

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.



SP-122.

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,



SP-123

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

SP-124

Reporters' notebooks

Los Angeles City Hall

# Council remains partial to hyper-speed legislation

By JOYCE PETERSON
and MARY ANN MILBOURN
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 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.

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 $85 million in tax-exempt financing for the Coliseum.

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Even career bureaucrats had a tough time keeping up with the council action.

"I used to think I had a good handle on what's 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 Ferraro was not amused at MALDEF's plan to achieve this goal by moving his Fourth District to East Los Angeles.

JANUARY 30, 1986

PRESS-TELEGRAM

604 Pine Avenue, Long Beach, California 90844 / Telephone 435-1161



# 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.



SP-126

## LEGISLATURE CHANGES BROWN ACT: A.B. 2674 (Connelly)

### I. LEGISLATIVE POLICY.

A. The people have a right to know and in advance.
B. This policy already applies to state agencies.
C. Signed into law as Chapter 641, effective 1-1-87.

### II. ALL LOCAL AGENCIES.

A. General purpose governments: cities and counties.
B. Special districts.
C. School districts and community college districts.
D. Other local agencies: LAFCOs, JPAs, etc.

### III. WHAT DO YOU HAVE TO DO?

A. Post agenda 72 hours in advance.
   1. Brief general description of items.
   2. Time and location.
   3. Probably not much of an administrative burden.
B. Can't add items (3 exceptions)
   1. "Emergency," as defined.
   2. With 2/3 vote (unanimous if less than 2/3 present).
   3. Previously noticed but carried over for 5 days.
C. "Open mike" time must be provided.
   1. Subject matter jurisdiction.
   2. Reasonable regulations: time on issue & speaker.

### IV. ILLEGALLY MADE DECISIONS CAN BE VOIDED BY COURT.

A. Certain decisions can't be voided, even if illegal.
   1. Substantial compliance by local agency.
   2. Actions on bonds and indebtedness.
   3. Actions on contracts, in good faith reliance.
   4. Actions on tax collection.
B. Challengers must first try administrative remedies.
C. Court can award attorneys' fees, either way.



SP-197

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 -

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



Mary McMillan
445-6034.
algov.

HACA...

→ bill file

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
383 HALL OF ADMINISTRATION · LOS ANGELES CALIFORNIA 90012

MEMBERS OF THE BOARD
PETER F. SCHABARUM
KENNETH HAHN
EDMUND D. EDELMAN
DEANE DANA
MICHAEL D. ANTONOVICH

LARRY J. MONTEILH, EXECUTIVE OFFICER
(213) 974-1411

April 25, 1986

Mr. Gene Erbin
Assembly Judiciary Committee
Room 6005, State Capitol
Sacramento, CA 95814

Dear Mr. Erbin:

Enclosed are additional amendments to AB2674 that you discussed with John McKibben last week. The attached version of the bill shows all of our proposed amendments to the March 18, 1986 version of the bill, including those sent to you with my letter of March 28, 1986. The newest amendments are indicated by a vertical line in the left margin on the first page.

The two paragraphs added to Section 54954.2 subdivision (b) describe actions frequently taken by a board of supervisors. Such actions are not ones of any substance.

Paragraph (4) describes a type of action which is purely administrative or executive in nature: it does not involve a commitment of resources of the local agency, nor does it involve a legislative body taking a position on an issue of substance. It merely exempts from the 72-hour posting requirement actions in which a legislative body is directing personnel under its jurisdiction to provide it information prior to its making a decision and taking action on an issue.

probably OK

Paragraph (5) exempts from the 72-hour posting requirement actions by a legislative body to fill a vacancy of boards, commissions and tasks forces that are purely advisory in nature. It would not exempt from the posting requirement appointments to boards and commissions that have decision-making authority such as assessment appeals boards, regional planning commissions, boards of retirement, etc.

hmm...



SP - 4b

We request that you accept the amendments to AB2674 proposed by the clerks of the board of the County Clerks Association. If you would like to discuss any of them, please call me at (213) 974-1401 or John McKibben at (213) 974-1405.

Very truly yours,

LARRY J. MONTEILH
Co-chairman, Clerks of the Board
Legislative Committee

Enclosure

LJM:ab

cc: Beverly A. Williams, Co-chairman
Clerks of the Board Legislative Committee

James Simpson, Legislative Advocate
County Clerks Association of California

Robert D. Zumwalt, President
County Clerks Association of California

Lonna B. Smith, Secretary
County Clerks Association of California

Peter Detwiler, Consultant
Senate Local Government Committee

Mark Wasser
Legislative Representative/Legal Counsel
County Supervisors' Association of California

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

SECTION 1. 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 a specific agenda clearly describing the items 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 ~~either~~ any of the following conditions:

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

(2) Upon a finding by a two-thirds vote of the legislative body, or a unanimous vote of the members present, that the need to take action arose subsequent to the agenda being posted as specified in subdivision (a). OK

(3) The item to be acted upon by the legislative body is a ceremonial one such as a commendatory or commemorative presentation, a motion to adjourn in memory of a deceased person, an instruction that flags within the jurisdiction be flown at half-mast, or other such ceremonial resolutions or proclamations. no

(4) The item to be acted upon by the legislative body is one to instruct an agency or body under the jurisdiction of the local legislative body to conduct a study and prepare a report for the local legislative body, or the item is one in which the legislative body receives and files a report. no

(5) The item to be acted upon by the legislative body is one making an appointment to an advisory board, committee, commission or task force, or other similar multimember advisory body of the local agency. no

SEC. 2. 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, 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.

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

SEC. 2.5. 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 and shall specify the time and location of the meeting and be posted in a location that is freely accessible to members of the public.

SEC. 3. 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.

(c) Any other circumstance which severly impairs public health, safety, or both, as determined by a majority of the members of the legislative body. Inc

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 special 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. 4. 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 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) 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 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 as evidence of a violation of this chapter.

SEC. 5. 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 article. 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. 6. 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.

bill file

# Jackson Valley Irrigation District

5751 Buena Vista Road
Ione, California 95640
209/274-2057

April 25, 1986

Kay Packard, Secretary
Senate Standing Committee
Local Government
State Capitol - Room 2080
Sacramento, California 95814

Re: AB 2674

Dear Ms. Packard:

It has come to our attention that AB 2674 is now being considered for passage by the Senate. The measure is opposed by the Jackson Valley Irrigation District.

AB 2674 would modify the Ralph M. Brown Act regarding open meetings by requiring a local public agency to post 72 hours in advance of a regular meeting, a "specific agenda" clearly describing the items of business to be transacted or discussed. The bill then goes on to further restrict the public agency's governing board by not allowing the board to act on any items not appearing on the regular meeting agenda unless by a two thirds vote the governing board finds the items to be an emergency situation. The bill further permits "any" interested person to commence various "actions" if they feel the governing board took any action in violation of this new proposed amendment to the Ralph M. Brown Act.

This type of "law making" does not promote or encourage good local government:

FIRST: Because it violates the principal of a "Republic" form of government and gets us one step closer to "mob-ocracy".

SECOND: A governing board is supposed to govern not be led by a bunch of rabble rousers.

THIRD: Most public agencies, especially in this State, are having serious problems obtaining liability insurance. This bill sets the stage for more

frivolous liability problems and insurance costs. The wording "any" interested person would allow an illegal alien or even a KGB agent to initiate an action against a public board.

FOURTH: The Ralph M. Brown Act, as now written, has been working well for reasonable and responsible citizens and boards. The few instances where it apparently did not work the people have not been diligent and active in selecting their representatives before and at election time or some boards action did not allow a minority to prevail.

Please give your serious attention to defeat this proposed Bill AB 2674. It is obviously designed to create problems not correct the infractions. The public and public agencies do not need more handicaps, excuses and harrassments to further overwork our boards, administrators, insurance companies and abused legal system.

Very truly yours,

JACKSON VALLEY IRRIGATION DISTRICT

Henry Willy

Henry Willy
Secretary-Manager

HW/jw
cc: Local Government Committee Members
Senator John Garamendi

A Public Agency

Amador County Water Agency

David T. Walker, General Manager

204 COURT STREET • P.O. BOX 905 • JACKSON, CA 95642-0905 • (209) 223-3018

April 28, 1986

Kay Packard, Secretary
Senate Standing Committee
Local Government
State Capitol - Room 2080
Sacramento, CA 95814

Re: AB 2674 (Connelly)

Dear Ms. Packard:

The Board of Directors of the Amador County Water Agency is opposed to AB 2674. We want our position noted along with others who are vigoursly in opposition to this unnecessary legislation.

The Board believes that AB 2674 is not only unnecessary but demeans and insults local elected officials and the electorate itself. If the voters don't like our Board members because of the way they handle the agenda or other responsibilities as a legislative body, those same voters can and will find themselves a new Board member.

While we feel the whole bill is a poor piece of legislation, we are particularly disturbed by section 54954.3(a) which prohibits action being taken on any item not appearing on the agenda. This thwarts the very purpose of giving the public an opportunity to address the Board. Under this bill, the Board would have to tell the public who appear on a non-agenda item that they must return to discuss the matter at a later date. In our case that means at least two and sometimes three weeks delay. Our Board members are quite capable of figuring out for themselves when action on a new item needs to be held over. This mandated delay will most certainly be an inconvenience to the public and cause more frustration in our already overburdened political process.

We urge that you give serious attention to the defeat of AB 2674. It seems to be designed to create problems instead of correcting infractions. The public and the public agencies which serve them do not need more handicaps.

Very truly yours,

David T. Walker
General Manager

DTW:bh

cc: Senator John Garamendi
Local Government Committee Members

bill file

ACWA

April 28, 1986

The Honorable Lloyd Connelly
California State Assembly
State Capitol
Sacramento, California 95814

Re: Assembly Bill 2674

Dear Lloyd:

At the most recent meeting of our Legislative Committee the amendments to Assembly Bill 2674 were considered. These amendments were furnished to me by Connie Barker and were contained in a mock-up of your bill as last amended on March 18, 1986. The committee members suggested several amendments that would improve the workability of the measure without subverting the thrust of the bill.

Amendment No. 1

Section 54954.2 (b) (1) and (2) contain extraordinary vote requirements not required of other action taken by a local agency body. We would suggest that both subsections (1) and (2) be amended to require that a determination by the legislative body would be sufficient without reference to a specified majority.

Amendment No. 2

Subsection (3) of Section 54954.2 (b) specifies that action taken on a previously scheduled item on the agenda, cannot be taken if more than 10 days have elapsed prior to the day on which action is taken.

It is suggested that language be inserted to expand that 10-day period to the time of the previous meeting of the legislative body or 10 days, whichever is earlier. This accommodates those agencies that meet bi-monthly, monthly, or in some cases, quarterly.

ASSOCIATION OF
CALIFORNIA
WATER AGENCIES

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*since 1910*

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

75th
ANNIVERSARY

Amendment No. 3

On page 4 of the mock-up, new Section 54954.3 is amended to logically provide that a legislative body need not consider any matter falling within the public forum provisions if a committee of that legislative body has previously heard such item.

We would suggest that items previously heard by the legislative body itself be excluded from consideration as well.

Amendment No. 4

While the requirement for personal delivery of a notice of special meetings to board members is contained in present law, several members of our committee who serve as counsel to legislative bodies observed that personal delivery can seldom if ever be achieved except at extraordinary expense.

They suggested the requirement for personal delivery be stricken and the words "received at the designated address" be substituted. In this way, a notice delivered in person to the residence or other designated place, or delivery by mail, would suffice. It was felt this would reflect the manner in which the vast majority of notices of special meetings are given and would be an improvement in the law.

Amendment No. 5

New Section 54960.1 (b) sets forth various time periods relating to demands to correct specified actions as well as a time period for responses to such demands.

While the time period of 30 days would be adequate in many cases to cure or correct an alleged violation, it is suggested that the phrase "or at the next meeting of the legislative body whichever is later" be inserted after "30 days."

Amendment No. 6

New Section 54960.1 (c) (3) contained language that would have excepted from the null and void provisions, action taken giving "rise to a contractual obligation upon which a party has, in good faith, detrimentally relied."

Since the new language is limited to excepting competitively bid contract, it is suggested that the stricken language be restored.

If these amendments are accepted by you and offered in Senate Local Government Committee, our Legislative Committee has authorized me to withdraw our opposition to your bill.

We will be happy to discuss these amendments with you at your convenience.

Sincerely,

John P. Fraser
Executive Director
General Counsel

JPF:DH

cc: Senate Committee on Local Government
Connie Barker, League of California Cities
Mark Wasser, County Supervisors Association of California

A-W & M

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

96 40

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.

96 60

(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:*

SECTION 1. 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 a ~~specific agenda of clearly describing/~~ ---- an agenda containing a brief general descriptic of each item the ~~items~~ 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 either of the following conditions:

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

(2) Upon a ~~finding~~/ ---------- determination by a two-thirds vote of the legislative body that ~~failure to take action will 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 as specified in subdivision (a).

(3) The item was duly posted pursuant to paragraph (a) for a prior meeting of the legislative body occurring not more than 10 days prior to the date action is taken on the item, and at that prior meeting the item was continued to the meeting at which action is being taken.

In enacting paragraph (a) of Section 54954.2 at its 1986 session, the Legislature intends to require local public agencies to post agendas with sufficient descriptions of the items of business to be transacted at a meeting to enable members of the public of ordinary intelligence, to ascertain the nature of the items on the agenda, so that they may seek further information, such as staff reports and other background materials, to determine details of the proposal. In enacting this section, the Legislature does not intend to require local agencies to give the kind of notice required to fulfill constitutional due process requirements.

SEC. 2. 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~~ and within the 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. ~~,~~ 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.

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

SEC. 2.5. 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 and shall specify the time and location of the meeting and be posted in a location that is freely accessible to members of the public.

SEC. 3. 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 ~~shall exhaust~~ 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 special 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. 4. 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. ~~Any action seeking such a judicial determination shall be commenced within 30 days from the date the action was taken.~~ 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 45 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.* A legislative body shall be conclusively presumed to have cured or corrected an alleged violation if it posts the agenda item pursuant to Section 54954.2 or 54956 and after the appropriate posting period it takes action on the item in an open and public meeting.

30 (this is new - my committee felt they needed 30 days to act)

If the legislative body takes no action within the 30-day period, it shall be deemed a decision not to cure or correct the challenged action, and the 15 day period to commence the action shall commence to run the day after the 30-day period to cure or correct the action expires.

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96 150

*(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 upon which a party has, in good faith, detrimentally relied.~~ involved the issuance of a competitively bid contract, and the party to whom the contract was awarded did not participate in the alleged violation.

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

~~(c)~~

*(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 ~~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.

*(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.*

SEC. 5. 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 article. 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. 6. 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.

O

MEMBERS
ELIHU M. HARRIS
TOM McCLINTOCK
SUNNY MOJONNIER
MAXINE WATERS

# Assembly
# California Legislature

## Subcommittee on the Administration of Justice

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May 7, 1986

**The following newspapers have published editorials supporting AB 2674:**

LOS ANGELES TIMES
SAN JOSE MERCURY NEWS
ORANGE COUNTY REGISTER
THE SACRAMENTO UNION
THE SACRAMENTO BEE
THE BAKERSFIELD CALIFORNIAN
THE TEHACHAPI NEWS
THE FRESNO BEE
OAKDALE LEADER
VISALIA TIMES DELTA
SAN FRANCISCO EXAMINER
SANGER HERALD
PORTERVILLE RECORDER
RIVERSIDE COUNTY RANCHO NEWS
ONTARIO DAILY REPORT
GARBERVILLE REDWOOD RECORD
SALINAS CALIFORNIAN

THE OCEANSIDE BLADE TRIBUNE
THE ESCONDIDO TIMES-ADVOCATE
LONG BEACH PRESS-TELEGRAM
THE OAKLAND TRIBUNE
THE SAN MATEO TIMES
SALINAS CALIFORNIAN
VAN NUYS DAILY NEWS
BELVEDERE CITIZEN
SANTA BARBARA NEWS-PRESS
THE UNION (Grass Valley-Nevada City)
PALOS VERDES PENINSULA NEWS
SAN FRANCISCO CHRONICLE
PALO ALTO PENINSULA TIMES TRIBUNE
LAKE ELSINORE VALLEY SUN-TRIBUNE
RANCHO SANTA FE HOME COURIER
OROVILLE MERCURY - REGISTER

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

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# 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.

# Our Opinion

# It's time to make acts of illegal meets illegal

## Sun-Tribune Opinion

Often, the doings up in Sacramento seem far removed from the real world in which we all live and work — especially if those doings are related to some technical piece of legislation about government operations.

Well, there's one of those in the works right now that is as much a "local story" as the PTA or the water district board.

It's Assembly Bill 2674 and it has to do with open meetings of local governmental agencies.

What AB 2674 would do, in essence, is make actions taken illegally null and void — if a local public agency holds a meeting behind closed doors (which is a violation of a state law known as the Brown Act), the action itself would be illegal and could be declared null and void.

Introduced by Assemblyman Lloyd G. Connelly, D-Sacramento, the bill has already had a quick hearing before the Assembly Local Government Committee, on which sits Assemblyman Bill Bradley, R-Escondido.

Bradley's district encompasses a pretty good chunk of Southwest Riverside County, including Rancho California, Murrieta, Wildomar and more, and that means he's the guy to contact if you, like this newspaper and a lot of other interested parties, want to tell someone that you think public agencies should act legally and openly on the public's business.

If you want to see school boards, city councils, water district boards and other local agencies having to conform to a law with as much teeth as the one that dictates open meetings and open-meeting rules for state agencies — a bill adding the "null and void" provision to the Bagley-Keene Open Meeting Act for state agencies already is law — Bradley is the one to contact.

His aides both in Escondido and in Sacramento say their boss "favors the bill" and we expect to see his "aye" on the record when the committee holds follow-up hearings this week. The bill is scheduled for a vote on April 1.

AB 2674 is a worthy piece of legislation and, should it be reported out of committee for a full vote of the Assembly in the near future, we'd hope Assemblyman Steve Clute D-Riverside, the representative of the rest of Southwest Riverside County, could be counted on to support it.

LAKE ELSINORE VALLEY
Sun-Tribune
C-10
Wednesday, March 19, 1986

# Editorials

# It's time to make acts of illegal meets illegal

## Rancho News Opinion

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Rancho News

A-10

Wednesday, March 19, 1986

Palo Alto, CA
(Santa Clara Co.)
Peninsula Times Tribune
(Cir. D. 60,288)
(Cir. S. 60,011)

MAR 1 1 1986

Allen's P. C. B Est. 1888

# Getting Brown on line

60

IT'S TIME for a couple of amendments to the Brown Act. That act, as you may recall, was passed to give citizens greater access to the workings of such local government bodies as city councils, school boards and boards of supervisors. It has opened up local governments to a considerable degree, but still has two unacceptable shortcomings.

These problems are addressed in Assembly Bill 2674, introduced by Lloyd Connelly, D-Sacramento. The bill goes for hearing today before the Assembly Local Government Committee, chaired by Santa Clara Assemblyman Dom Cortese.

Connelly's bill would improve the Brown Act by requiring local entities to post specific agendas for their meetings 72 hours in advance of regular meetings and 24 hours in advance of special meetings, and by authorizing private citizens or organizations to seek and obtain judicial invalidation of actions taken in violation of the Brown Act.

The first amendment is, quite obviously, intended to make the business of a public meeting known in advance so that interested parties can attend.

It is curious that the second amendment is needed at all. But the fact is that under the Brown Act as it stands today, a local government action which violates the act is immune from challenge and invalidation.

These amendments are long overdue.

Porterville, CA
(Tulare Co.)
Recorder
(Cir. 6xW. 12,013)

FEB 18 1986

Allen's P. C. B Est. 1888

# Government in the open

6.5 6D

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 wisespread conviction that many of the actions governments take are none of their business in the first place.

But if governments continue to arrogant 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.

Visalia, CA
(Tulare Co.)
Times Delta
(Cir. 6xW. 20,137)

FEB 3 - 1986

Allen's P.C. S Est. 1888

# Open meeting bill a must

On June 5, 1985, at a meeting of the Los Angeles City Council, Councilman Bart 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

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# 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



# 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.



SP - 33b

THE TRIBUNE

*An independent newspaper serving the Greater Bay Area from Oakland since 1874*

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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
(Circ. 6xW. 23,602)

JAN 17 1986

Allen's P. C. S Est. 1888

# A remedy to secrecy

Last year, the Legislature moved halfway 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. 135,019)
(Cir. Sat. 146,767)
(Cir. Sun. 122,831)

JAN 20 1986

Allen's P. C. B. Est. 1885

Editorials

60

# 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)

FEB 1 - 1986

Allen's P. C. S Est 1888

# A cure for sneaky government

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 t post agendas for all regular and speci meetings and to prohibit action on any ite not on the agenda. Such requirements a ready exist for school boards, communi college boards and state bodies.

And to put teeth into the Brown Act, t new legislation would also authorize priva citizens and groups to sue local agencies th try to hide their actions. The courts would given the authority to declare null and vo actions taken without proper notice or illegally closed local meetings. The Legis ture last year passed a similar provision a plying to state agencies.

Open meetings are vital to free gove ment. But open meetings, by themselves, not enough if local officials can obscure th actions. By removing the shadows wh timid local governments now hide from p lic controversy, AB 2674 would strike a b for accountability and responsiveness.

**The Sacramento Bee**

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Monday, January 27, 1986

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

## Editorials

# Closed Votes At Open Meetings

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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.

(San Diego Co.)
Mobile Homes Courier
(Cir. W.)

MAR 1 4 1986



Editorial

# A flip of the coin

Tails, you lose. Heads, we win. That's the current situation in the marble halls of Sacramento with new legislation geared at the public's right to know how their public bodies are behaving.

On one hand, we've got Assembly Bill 2674 by Assemblyman Lloyd Connelly, (D-Sacramento), which would back up the Brown Act, the state's open meetings law. This proposed legislation, which is going before the lower house's committee this week, would allow any actions of a governmental agency taken in a meeting that violated the anti-secrey law to be declared null and void. At the very least, the bill in its present form would mean the public agency would have to do it all over again, in front of friends and foes.

On the other hand is Senate Bill 1914 that would allow hospital districts to conduct more of their (and our) business in secret. Authored by Sen. Nicholas Petris(D-Oakland), the legislation would exempt from the California Public Records Act any hospital district records that "relate to any contract for inpatient or outpatient services." That means keeping such information from the public. That's us.

Like other public agencies, hospital district meetings are open to the public, with some exceptions under the Brown Act. Hospitals districts are governed by trustees or boards of directors, elected by the public for specific terms of office. Public hospitals are partially supported by taxes. Most of the buildings were constructed with bonds approved by the public. Many of the patients, especially the elderly, are being cared for, with the public paying part of the fare (Medicare).

So what's the need for keeping secrets from the public?

According to the bill's sponsor, the Association of California Hospital Districts, open meetings hamper public districts from competing with the private, for profit hospitals. Public hospitals, they say, may not survive in such a situation. The public's private pocketbooks, we say, will be hard pressed to survive for long in such a situation.

Contrary to popular opinion, modern medical care is not the basis for increased life spans. Nor are modern miracle drugs and their high tech counterparts of advanced equipment. Longevity here and around the world has increased during the 20th Century due to sanitation measures and the immunization programs.

Today, folks are paying more than ever for health care services. They're paying more of their income now for such help than they paid before such publicly assisted programs (Medicare and Medical) came into being. Now more than ever is the importance of overseeing the facilities that are charged with taking care of us and our bodies. Connelly's bill is such a measure and deserves our support.

His amendment to the California Code 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 are considering certain actions.

If there is a violation of the Brown Act, it allows any member of the public to ask the courts to nullify any action taken at the meeting. Now prosecution under the Brown Act is all but impossible; it must be proven that the offending officials intended to violate the law. But Connelly's measure notes that a violation must be more than a minor technicality. And the agency has another chance to redo their motion which has been undone by the courts if they do so in a legitimate public meeting.

We don't feel that our public hospitals need to conduct their affairs in secret. There is too much mumbo-jumbo associated with medicine anyhow. And always has been. It's our lives we're talking about.

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

APR 15 1986



# Teeth for the Brown Act

Local residents who have resented being locked out of government meetings should be very interested in a bill headed for the California state Senate.

So, we'll admit, should newspaper reporters.

The bill, passed by the state Assembly Monday, would allow citizens to sue to overturn actions taken in meetings that are closed illegally by local government bodies.

The Ralph M. Brown Act sets out the requirements that must be met before a government board or commission is allowed to close its meetings. So, for citizens trying to gain legitimate access to the public's business, it is an invaluable tool. At least, as far as it goes.

But, when it comes to enforcement, it doesn't go far enough. A board that violates the open meetings act might find itself hauled into court. But, as a practical matter, about the only punishment that is ever handed out is a declaration that the meeting was, indeed, closed illegally, and that the board shouldn't do it again. Actions taken in the illegal meeting stand.

This bill, sponsored by Assemblyman Lloyd Connelly, D-Sacramento, would allow a citizen to pursue the issue in court and have actions taken in an illegal meeting declared null and void.

Without a more effective means of enforcement, the current Brown Act says excluding the public from the decision making process is not much more than a bad idea. The Connelly bill would make it plain that such exclusion is illegal. Which is exactly what it should be.

Oroville, CA
(Butte Co.)
Mercury-Register
(Cir. 6xW. 11,107)

MAR 31 1986

Allen's P. C. B Est. 1888

# New law would put teeth in Ralph Brown Act

It was more than 30 years ago that the state Legislature passed the Ralph M. Brown Act that required meetings of boards of supervisors, city councils and other local governmental agencies be open to the public and that voting on issues be conducted openly. The Brown Act passed because their was much abuse of the public's right to know in those days and freedom of information simply didn't exist in some areas of the state.

The Brown Act was better than nothing. In fact, it actually went a long way toward bringing the meetings of public bodies out into the open. The threat of the Brown Act was credited with a turnaround in the way many nonpublic public meetings were conducted.

But the act had its shortcomings. One of the major defects in the law was the absence of teeth to enforce it. Now, however, the Legislature is considering a bill by Assemblyman Lloyd Connelly, D-Sacramento, that would supply a set of effective dentures and make the Brown Act much more effective.

The bill by Connelly would, for the first time, provide that courts could overturn local government actions taken in violation of the Brown Act.

Private citizens and organizations who believed an action to be illegally passed, could, after first asking the involved body to undo the action, take the issue to court where judges would have the power to find an action null and void if it was, indeed, adopted in violation of the Brown Act.

Another key provision of the new Assembly bill would require posting of special agendas for public agency meetings at least three days before regular meetings.

The Brown Act was a step in the right direction when it was passed 33 years ago but it was found to be lacking in many areas as various government agencies sought and found ways to circumvent the letter of the law. Many of these loop holes have since been plugged, but the lack of teeth in the law still kept it from being the strong freedom-of-information legislation it was intended to be.

Connelly's bill, AB 2674, deserves a vote of approval when it goes before the Assembly's Local Government Committee on April 1.

## Up on a stump

# Keep business public

Doing the public's business in public is, more often than not, a matter of attitude. If a city council, hospital board or harbor district desires to keep the public out of the deliberation process, it's easy to hide behind "open meeting" laws. Too many exceptions are allowed.

Some Crescent City harbor commissioners seem to think it's a good idea to keep the doors closed. At a recent meeting, a local commercial fisherman wanted to discuss the job description of any new harbor master hired to replace the late Bob Clarke. One commissioner got so upset about discussing in public what the duties of a new harbor master should be that he walked out of the meeting in a huff. He claimed it should only be talked about behind closed doors because it is a "personnel matter."

Personnel matters are one of the exceptions to the state's requirement of open public meetings. In this case, however, the issue was not about a person, it was about the nature of the harbor master's job — clearly something the public has a right to discuss.

During the lease negotiations between Sutter and Seaside Hospital's board of directors, several attempts were made to keep things from the public. In almost every case the "secret" material leaked to the press.

One document, written by Seaside's attorney James Hooper, was a history of the lease process and an outline of the positions taken by the board. It told of the goals the district had set for the lease. Timely release to the public by the board would have provided citizens with an accurate insight into the lease negotiations process.

As it turned out, by the time The (Del Norte) Triplicate obtained a copy of the secret document the issue was no longer relevant to the public interest — the lease had already been voted upon by the board. Of course, all this secrecy was legal — even if it was unnecessary. The board could have released the secret document without jeopardizing the lease negotiations. It had the right, and perhaps the obligation, to do so, but chose not to.

The California Legislature may put new teeth into our open meetings laws. Assembly Bill 2674, sponsored by Assemblyman Lloyd G. Connelly, D-Sacramento, Assemblyman Ross Johnson, R-Fullerton, and Senator Milton Marks, D-San Francisco, will make two changes:

- Require that local entities post specific agendas for their meetings so that citizens can learn beforehand what business will be transacted.
- An individual could challenge any action taken in violation of the open meetings laws and a court could declare such action "null and void." Under existing law, actions taken in violation are, nonetheless, valid.

At times it appears as though some local public entities would rather not have the public involved. These measures will help defend the public's access to our own government.

—Steven L. Yarbrough
Managing Editor
Del Norte Triplicate

Garberville, CA
(Humboldt Co.)
Redwood Record
(Cir. W. 1,247)

MAR 20 1986

Allen's P. C. B Est. 1888

Santa Ana, CA
(Orange Co.)
Register
(Cir. D. 278,462)
(Cir. Sat. 246,126)
(Cir. Sun. 311,962)

JAN 17 1986

Allen's P. C. S Est. 1858

# 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 impoee 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.

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.

Palos Verdes Estates,CA
(Los Angeles Co.)
Peninsula News and
Rolling Hills Herald
(Cir. 2XW 6.766)

FEB13 1986



# Letting Some Light In

A pair of Assemblymen are seeking to let a bit more light shine on the actions of the public bodies which decide so many of those things which tell us what we can and cannot do.

Lloyd G. Connelly, a Sacramento Democrat, and Ross Johnson, a Fullerton Republican, have introduced Assembly Bill 2674, a tightening up of the provisions of the Ralph M. Brown Act—which says simply that the public's business must be done in view of the public.

Under AB 2674, local government agencies would be required to post specific agendas before meetings, and citizens could go to court and have any actions taken in violation of the Brown Act nullified.

Under present rules, actions taken in violation of the Brown Act can only be remedied by taking the members—say of a city council—to court on criminal charges. It has never been done.

In one notorious case last year, the Los Angeles City Council suspended its rules and the members voted unanimously for "Item 53."

It wasn't until later that a curious reporter ferreted through the paperwork and learned that "Item 53" gives the council members a 10 percent raise in pay.

While the council's action violated the spirit of the Brown Act, it did not violate the provisions of the law.

The Connelly-Johnson proposal would do little to deter such slick parliamentary maneuvers, but it could put a damper on "retreats," in which public agencies retire to some resort to beaver away at public business. While most are careful to state that the public is welcome to attend, the onus on the public to incur substantial travel and lodging expense—in addition to the expense it already is shouldering for the public officials—makes the invitation a hollow one.

One Peninsula city council last year took its "retreat" to Palm Springs. A couple of weeks ago, the Rancho Palos Verdes City Council held a "retreat" in Long Beach—a bit closer to home.

AB 2674 would not cure all local government secrecy problems, but would put a stop to the practice of adding last-minute items to the agenda without prior discussion in the hope an item can slip through unnoticed.

The bill is endorsed by the California District Attorneys Association, and should be endorsed by every citizen of California interested in having their local government bodies conduct the public's business in the open.

Tuesday, March 18, 1986

San Francisco Chronicle

THE VOICE OF THE WEST



## EDITORIALS

# Null and Void

**THIRTY-THREE YEARS ago, the state Legislature approved a law requiring that meetings of boards of supervisors, city councils and other local government bodies be open to the public and that votes be conducted openly. Until passage of the Ralph M. Brown Act, it was not unknown for boards and councils to meet and vote in private on some issues.**

**Though the Brown Act has served California well, it has had certain shortcomings. The major one of these is the absence of enforcement teeth. Now, however, a bill before the Legislature by Assemblyman Lloyd Connelly (D-Sacramento) would supply the missing teeth.**

**His bill would provide, for the first time, that courts could overturn local government actions taken in violation of the Brown Act. Private citizens and organizations, after first asking the involved board or council to undo an action, could take the issue to court, where judges will have the power to find an action null and void if it was adopted in violation of the Brown Act. The other key provision of the Connelly bill would require posting of specific agendas for public agency meetings at least three days before regular meetings.**

**THE BILL, now known as AB 2674, will come up for a vote by the Assembly Local Government Committee on April 1. It deserves approval.**

# Opinion

*Editorial*

## Herald backs state bill

Public access to open meetings is a vital part of a free society. A bill now making its way through the state Legislature, Assembly Bill 2674, proposes to strengthen the California open meeting law and maintain the freedom we enjoy. In that respect, the Sanger Herald fully endorses its passage.

AB 2674 — authored by Assemblyman Lloyd Connelly, D-Sacramento — proposes two major amendments to the state's existing open meeting law, otherwise known as the Ralph M. Brown Act of 1953.

AB 2674 says in effect that local governmental entities must post specific agendas for their meetings 72 hours in advance of regular meetings, and 24 hours prior to special meetings.

There is no stipulation in the Brown Act, as it stands, that requires those public entities to publish such agendas. AB 2674 changes that for the public betterment.

Another advantage of the 72-hour agenda posting is that it cuts down the common practice of adding agenda items at the last minute. It holds public officials accountable for sticking by that advance agenda, while also offering tax-paying citizens a chance to know beforehand what business their public officials will be conducting.

But there's more. AB 2674 also proposes that citizens can seek recourse in the courts if any action by a local governmental agency is found to be in violation of the Brown Act.

In other words, if a citizen found an agency's action in violation of the Brown Act, he or she could seek to nullify it in court. The agency's action would then be invalid.

That changes the existing situation: Under the Brown Act now, some violations may go unchallenged and remain on the record.

AB 2674 is definitely an advantage for the private citizen. It allows people access to the goings-on of the public officials he or she voted into office.

Disadvantages? Well, the bill may pose problems to government bureacracies because it sets more rigid guidelines in black and white.

But the bill in essence holds our officials responsible for honest government, and that's a step in the right direction no matter how you look at it.

Which is mainly why the Sanger Herald is joining other newspapers statewide in endorsing AB 2674.

The bill is something sorely-needed in California, even in 1986; many agencies still manage to find loopholes in the existing Brown Act and use them to their own advantage.

Terry Francke, legal counsel for the California Newspaper Publishers Association, cites numerous examples of continuing conflicts involving agencies that step over the bounds of honest government in violation of the Brown Act — whether deliberately or unintentionally.

At press time, AB 2674 had just come out of the Assembly Local Government Committee. The next step will be the Assembly Ways and Means Committee, where some opposition is expected — mostly from the League of California Cities.

Hopefully, with enough push from the public, press and our state legislators, AB 2674 will be signed into law within the year's end.

In the meantime, the Sanger Herald stands behind the bill 100 percent.

The Sacramento Union
THE OLDEST DAILY IN THE WEST
FOUNDED • MARCH 19, 1851

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 discusssion 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.

# Support for reform

Bakersfield, CA
(Kern Co.)
Californian
(Cir. D. 65,887)
(Cir. S. 74,643)

FEB 9 - 1986

Allen's P. C. S 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, commmunity 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."



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# Strengthen the right to know

WITH FEW EXCEPTIONS, government business in an open and democratic society should be conducted publicly. That conviction is at the heart of California's Ralph M. Brown Act, which requires that all meetings of legislative bodies of local agencies be open to the public. The law is an important guarantor of the public's right to know, and it is, of course, crucial to the business of gathering and reporting the news.

But the Brown act has two flaws that render it considerably less forceful than it should be. At present, the law lacks a significant requirement that the governmental bodies it covers post notices or agendas in advance of their meetings. And it fails to provide remedies for violations; the Act lets stand actions that are taken in secret meetings.

Assembly Bill 2674 (by Assemblyman Lloyd Connelly, D-Sacramento) would put a spine into the Brown Act by addressing these shortcomings. Connelly's amendments would require local legislative bodies to post specific agendas for all regular meetings no later than 72 hours before the meeting. (Exceptions are allowed for emergency cases as defined by the Brown Act, or if the agency, by a two-thirds vote, makes a written assertion that that the need to take action arose suddenly and after the regular agenda was posted.)

The amendments also would give private citizens and groups 30 days to challenge actions taken in violation of the Brown Act. If a court determines that there was a violation, it could declare the action "null and void." The bill would permit a local body to convene a second meeting to rescind the questionable action, and if it did so, any later lawsuit for violating the Brown Act would be declared moot. Thus government agencies would be dissuaded from taking actions in secret, since these actions would then be subject to litigation.

It should be emphasized that the Connelly measure allows the present, legitimate exceptions to the Brown Act's requirements to continue. Meetings dealing with personnel matters, issues of national and public security, pending litigation, labor negotiations and several other matters now can be conducted in closed sessions; the bill retains these exceptions.

There will always be government officials who think they know better — who will persist in finding reasons why their business should be conducted behind closed doors. Strong and rigorously enforced open-meeting laws are the public's best defense against such officials. The Connelly bill comes up before the Assembly's Local Government Committee on Tuesday; in support of open government and the public's right to know, the committee should vote its approval.

Ceres, CA
(Stanislaus Co.)
Leader
(Cir. W. 4,717)

FEB 5 - 1986

## Our Opinion

# 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 caledar 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 goverments 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.

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The Times

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# 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 [illegible] 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.



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