

BROWN ACT DESK BOOK
2013

County Counsel
January 2013
Includes Code & Confidential
County Counsel Guide

**2013 RALPH M. BROWN ACT
(California Government Code)**

Contents

- § 54950. Declaration of public policy
- § 54950.5. Title of act
- § 54951. "Local agency"
- § 54952. "Legislative body"
- § 54952.1. Conduct and treatment of electee
- § 54952.2. Specified communications of legislative body of local agency prohibited outside meeting thereof
- § 54952.3. Simultaneous or serial order meetings authorized; Requirements; Compensation or stipend
- § 54952.6. "Action taken"
- § 54952.7. Copy of chapter
- § 54953. Requirement that meetings be open and public; Teleconferencing; Teleconference meetings by health authority
- § 54953.1. Grand jury testimony
- § 54953.2. Meetings to conform to Americans with Disabilities Act
- § 54953.3. Registration of attendance
- § 54953.5. Recording proceedings
- § 54953.6. Restrictions on broadcasts of proceedings
- § 54953.7. Access to meetings beyond minimal standards
- § 54954. Rules for conduct of business; Time and place of meetings
- § 54954.1. Request for notice; Renewal; Fee
- § 54954.2. Posting of agenda; Actions not on agenda
- § 54954.3. Public testimony at regular meetings
- § 54954.4. Legislative findings and declarations relating to reimbursements; Legislative intent; Review of claims
- § 54954.5. Description of closed session items
- § 54954.6. Public meeting on general tax or assessment; Notice
- § 54955. Adjournment of meetings

- § 54955.1. Continuance of hearing
- § 54956. Special meetings; Notice
- § 54956.5. Emergency meetings; Notice
- § 54956.6. Fees
- § 54956.7. Closed sessions regarding application from person with criminal record
- § 54956.75. Closed session for response to final draft audit report
- § 54956.8. Closed sessions regarding real property negotiations
- § 54956.81. Closed sessions regarding purchase or sale of pension fund investments
- § 54956.86. Closed session for health plan member
- § 54956.87. Disclosure of records and information; Meetings in closed session
- § 54956.9. Closed sessions concerning pending litigation; Lawyer-client privilege
- § 54956.95. Closed sessions regarding liability
- § 54956.96. Disclosure of specified information in closed session of joint powers agency; Authorization of ...
- § 54957. Closed session regarding public security, facilities, employees, examination of witness
- § 54957.1. Public report of action taken in closed session; Form; Availability; Actions for injury to interests
- § 54957.2. Minute book for closed sessions
- § 54957.5. Agendas and other writings as public records
- § 54957.6. Closed sessions regarding employee matters
- § 54957.7. Disclosure of items to be discussed at closed session
- § 54957.8. Closed sessions of multijurisdictional drug law enforcement agencies
- § 54957.9. Authorization to clear room where meeting willfully interrupted; Readmission
- § 54957.10. Closed sessions regarding application for early withdrawal of deferred compensation plan funds
- § 54958. Application of chapter
- § 54959. Criminal penalty for violation of chapter
- § 54960. Proceeding to prevent violation of chapter; Recording closed sessions; Procedure for discovery of tapes
- § 54960.1. Proceeding to determine validity of action; Demand for correction

§ 54960.2. Proceeding to determine the applicability of chapter to past actions of legislative body; Conditions; Cease and desist letter

§ 54960.5. Costs and attorney fees

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

§ 54962. Prohibition against closed sessions except as expressly authorized

§ 54963. Disclosure of confidential information acquired in closed session prohibited



1 of 100 DOCUMENTS

Deering's California Codes Annotated
Copyright © 2013 by Matthew Bender & Company, Inc.
a member of the LexisNexis Group.
All rights reserved.

*** This document is current through the 2013 Supplement ***
(All 2012 legislation, 2012 Governor's Reorg. Plan No. 2 and all
propositions approved by the electorate at the June and November 2012 elections)

GOVERNMENT CODE
Title 5. Local Agencies
Division 2. Cities, Counties, and Other Agencies
Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies
Chapter 9. Meetings

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 54950 (2013)

§ 54950. Declaration of public policy

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

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

HISTORY:

Added Stats 1953 ch 1588 § 1.

NOTES:

Historical Derivation:

(a) Former Gov C § 36808, as added Stats 1949 ch 79 § 1.

(b) Stats 1883 ch 49 § 858, as amended Stats 1913 ch 221 § 1, Stats 1931 ch 132 § 8, Stats 1933 ch 516 § 11, Stats 1941 ch 545 § 3.

Note

Stats 2008 ch 63 provides:

SECTION 1. The Legislature hereby declares that it disapproves the court's holding in *Wolfe v. City of Fremont* (2006) 144 Cal.App.4th 533, 545, fn. 6, to the extent that it construes the prohibition against serial meetings by a legislative body of a local agency, as contained in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, to require that a series of individual meetings by members of a body actually result in a collective concurrence to violate the prohibition rather than also including the process of developing a collective concurrence as a violation of the prohibition.

It is the intent of the Legislature that the changes made by Section 3 of this act supersede the court's holding described in subdivision (a).

Cross References:

Open meetings of local agencies: *Gov C §§ 54950 et seq.*

Meetings of the hospital and safety commission to be held in accordance with provisions of this chapter: *H & S C § 1456.*

Collateral References:

Cal. Forms Pleading & Practice (Matthew Bender(R)) ch 191 "Discovery: Privileges And Other Discovery Limitations".

Cal. Legal Forms, (Matthew Bender(R)) § 13.31.

Cal. Torts (Matthew Bender(R)), § 61.66A.

2 *Witkin Cal. Evidence (4th ed) Witnesses § 517.*

Law Review Articles:

A New Domain for Public Speech: Opening Public Spaces Online. *94 Cal LR 1791.*

Privatization of Public Water Services: The States' Role in Ensuring Public Accountability. *32 Pepperdine LR 561.*

Attorney General's Opinions:

Authority of county board of supervisors to hold closed hearings when reviewing problems presented by county welfare director with reference to old age assistance, aid to needy children, or aid to needy blind program. *22 Ops. Cal. Atty. Gen. 224.*

Legality of resolution of city council restricting attendance at "council conferences" to citizens registered with city clerk. *27 Ops. Cal. Atty. Gen. 123.*

Application of secret meeting law to special committees or subcommittees of local agencies where such committees consist of less than quorum. *32 Ops. Cal. Atty. Gen. 240.*

Requirements of Brown Act with respect to city council meeting with city attorney being open to public. *36 Ops. Cal. Atty. Gen. 175.*

Application of Brown Act to meetings of city council with city manager, city attorney and planning director. *42 Ops. Cal. Atty. Gen. 61.*

Application of Secret Meeting Law to luncheon meetings held for discussing items of importance to governmental entity. *43 Ops. Cal. Atty. Gen. 36.*

An executive session may not be held to discuss complaints against presiding officers of the governing body of a city, county or special district. *61 Ops. Cal. Atty. Gen. 10.*

It would be a violation of the Ralph M. Brown Act for members of a city council to hold a series of closed discussions with citizens having matters of business pending before them to gather or convey information regarding those matters where the discussions are held on successive dates and are so planned to insure that a quorum of the council will not be present at any given meeting. *65 Ops. Cal. Atty. Gen. 63.*

Meetings of the academic senate or faculty council of a California community college are subject to the open meeting requirements of the Ralph M. Brown Act. *66 Ops. Cal. Atty. Gen. 252.*

Assuming that a closed session meeting with counsel, which is held by an advisory committee created by the Board of Supervisors to advise it on airport matters, properly relates to the committee's powers and duties to advise the board, the committee may meet with counsel in closed session to discuss litigation to which the board is the sole party representing the interests of the county. *67 Ops. Cal. Atty. Gen. 111.*

Weekend hours may be counted as part of the 72-hour period for the posting of an agenda prior to the regular meeting of the legislative body of a local agency. The posting of an agenda for a regular meeting of the legislative body of a local agency for 72 hours in a public building that is locked during the evening hours would not satisfy the statutory requirements for posting the agenda. *78 Ops. Cal. Atty. Gen. 327(95-812).*

The Ralph M. Brown Act (*Gov C §§ 54950-54962*) does not apply to the hearings of a county board of supervisors when acting as the county board of equalization or to the hearings of an assessment appeals board. *79 Ops. Cal. Atty. Gen. 124.*

An alternate member of a Local Agency Formation Commission, when not serving in place of a regular member, may participate in public hearings and deliberations of the commission, but may not attend closed sessions of the commission. *82 Ops. Cal. Atty. Gen. 29.*

The Los Angeles Community College District Joint Labor Management Benefits Committee is not required to comply with the Ralph M. Brown Act. Therefore, it follows that a closed "caucus" of the employee members is permissible. *92 Ops. Cal. Atty. Gen. 102.*

The circumstance that a proposed rehabilitation loan agreement pertains to the use of real property that a redevelopment agency is currently subleasing to the proposed recipient of the rehabilitation loan, makes reference to the sublease, and incorporates certain of its terms--but does not effectuate the acquisition, disposal, or modification of any real property rights under the existing sublease--does not, in itself, permit the agency and its negotiator to discuss the terms of the proposed agreement in closed session. The circumstance that a proposed rehabilitation loan agreement includes a redevelopment agency's acquisition of restrictive covenants, including use and operating covenants, over real property occupied by the proposed recipient of the rehabilitation loan does not, in itself, permit the agency and its negotiator to discuss the terms of the proposed agreement in closed session. *93 Ops. Cal. Atty. Gen. 51.*

Annotations:

Validity, construction, and application of statutes making public proceedings open to the public. *38 ALR3d 1070.*

Attorney-client exception under state law making proceedings by public bodies open to the public. *34 ALR5th 591.*

Hierarchy Notes:

Tit. 5, Div. 2, Pt. 1, Ch. 9 Note

NOTES OF DECISIONS

Decisions Under Current Law

1. Generally 2. Legislative Intent 3. Applicability 4. Construction 5. Compliance 6. Standing 7. Particular Determinations

Decisions Under Former Law

1. Generally 2. Legislative Intent 3. Applicability 4. Construction 5. Construction With Other Law 6. Quorum 7. Privileges 8. Subterfuge 9. Violations 10. Particular Determinations

Decisions Under Current Law

1. Generally

While personal meetings permit an interchange of views, unlike the distribution of a written memorandum, California's Ralph M. Brown Act, *Gov C §§ 54950 et seq.*, does not preclude members of a local legislative body from engaging in one-on-one discussions of matters before the body. This is not to imply that serial meetings between a city official and individual members of the city council can never lead to a violation of the Brown Act, but more than mere policy-related informational exchanges are required before such a violation will occur. *Wolfe v. City of Fremont* (2006, Cal App 1st Dist) 144 Cal App 4th 533, 50 Cal Rptr 3d 524, 2006 Cal App LEXIS 1711, modified, rehearing denied (2006, Cal App 1st Dist) 2006 Cal App LEXIS 1891.

2. Legislative Intent

Two newly elected members of a county board of supervisors and an incumbent member did not violate the open meeting requirement of the Ralph M. Brown Act (*Gov C §§ 54950 et seq.*) by holding a series of private meetings with an attorney to discuss their mutual opposition to an amendment to the county general plan, recently passed by the departing board, providing for the development of four new towns in their sparsely populated, agrarian county. When the incumbent supervisor met with the supervisors-elect in December 1992, the act did not apply to supervisors-elect, but only to those who had already assumed office (*Gov C § 54952.1*, operative in 1994). Thus, there was no "legislative body" convening among these three individuals. The legislative history of the 1994 statute supported the general presumption that, since the Legislature did not express clearly to the contrary, its purpose was to change existing law. Hence, the statute was not retroactive. Furthermore, the evidence regarding a meeting conducted on Jan. 4, 1993, when the two supervisors had assumed office, showed only a lawful plan and action to call a special open meeting for the following day. *216 Sutter Bay Associates v. County of Sutter* (1997, Cal App 3d Dist) 58 Cal App 4th 860, 68 Cal Rptr 2d 492, 1997 Cal App LEXIS 856.

Central purpose of the Ralph M. Brown Act, *Gov C § 54957*, is to ensure the sovereignty of the people over the agencies which serve them; thus, the legislature decreed under *Gov C § 54950*, that the actions of public commissions, boards, and councils be taken openly and that their deliberations be conducted openly so that the public could have a voice in shaping policy. *Gillespie v. San Francisco Pub. Library Com.* (1998, Cal App 1st Dist) 67 Cal App 4th 1165, 79 Cal Rptr 2d 649, 1998 Cal App LEXIS 947.

The Brown Act was adopted to ensure the public's right to attend the meetings of public agencies. Accordingly, the Act requires that the legislative bodies of local agencies, including city councils, hold their meetings open to the public except as expressly authorized by the Act. The Act authorizes closed sessions to be held with regard to certain matters, one of which is real property negotiations. The need for closed sessions in this circumstance is obvious. No purchase would ever be made for less than the maximum amount the public body would pay if the public (including the seller) could attend the session at which that maximum was set, and the same is true for minimum sale prices and lease terms and the like. *Kleitman v. Superior Court* (1999, Cal App 6th Dist) 74 Cal App 4th 324, 87 Cal Rptr 2d 813, 1999 Cal App LEXIS 762, rehearing denied (1999, Cal App 6th Dist) 74 Cal App 4th 1231b, 1999 Cal App LEXIS 824, review denied (1999, Cal) 1999 Cal LEXIS 7978.

Intent of the Ralph M. Brown Act, *Gov C §§ 54950 et seq.*, was to assure that actions of public commissions, boards and councils and the other public agencies in this state were taken openly and that their deliberations were conducted openly; hence, where a county board of supervisors and the county counsel denied that their discussion of non-agenda items at closed meetings violated the Act, an action filed under the Act by a newspaper and a public records rights coalition satisfied the intent of the Act. *Los Angeles Times Communications v. Los Angeles County Bd. of Supervisors* (2003, Cal App 2d Dist) 112 Cal App 4th 1313, 5 Cal Rptr 3d 776, 2003 Cal App LEXIS 1617, review denied (2004, Cal) 2004 Cal LEXIS 994.

3. Applicability

School district and school board were not required to give 24-hour written notice of the right to be heard in open session when it considered the appointment, employment, evaluation of performance, discipline, or dismissal of proba-

tionary teachers; *Gov C § 54957*, containing exceptions to the open meeting requirement of the Ralph M. Brown Act, *Gov C §§ 54950 et seq.*, was not violated. *Fischer v. Los Angeles Unified School Dist.* (1999, Cal App 2d Dist) 70 Cal App 4th 87, 82 Cal Rptr 2d 452, 1999 Cal App LEXIS 146, review denied (1999, Cal) 1999 Cal LEXIS 3019.

The Ralph M. Brown Act, *Gov C §§ 54950 et seq.*, does not require a county board of supervisors to allow members of the public to address it concerning whether an item should be placed on the agenda. *Coalition of Labor, Agriculture & Business v. County of Santa Barbara Bd. of Supervisors* (2005, Cal App 2d Dist) 129 Cal App 4th 205, 28 Cal Rptr 3d 198, 2005 Cal App LEXIS 749, review denied *Coalition of Labor Agriculture & Business v. County of Santa Barbara Board of Supervisors* (2005, Cal) 2005 Cal LEXIS 7994.

(Unpublished) Developer was not entitled to reconsideration of the court's stay of damages claims against a city and city officials because Younger abstention was warranted as to each of the developer's claims in that even though a claim under the Ralph M. Brown Act, *Gov C §§ 54950 et seq.*, was dropped in state court, that proceeding still implicated land use regulations, an important state interest. *Lake Luciana, LLC v. County of Napa* (2010, ND Cal) 2010 US Dist LEXIS 8371.

Trial court should have overruled the demurrers of a community college district and its former superintendent to a district resident's cause of action for violation of *Gov C § 54956.9* where the resident's allegations that individual trustees of the district board of trustees regularly and repeatedly left the room to meet with a judge, after which time they reached a consensus to enter into a settlement with the superintendent, showed more than merely discussing and approving proposed settlement terms and conditions, as they suggested the sort of collective acquisition and exchange of facts preliminary to an ultimate decision that had to occur openly. Issuance of a notice identifying the superintendent as the litigant, and minutes showing the board had reconsidered and approved her settlement agreement, did not establish a cure of the board's acts in impermissibly conducting information gathering in the course of mediating and negotiating with the superintendent in a closed meeting, actions that fell outside the pending litigation exception of California's Ralph M. Brown Act, *Gov C §§ 54950.5 et seq.* *Page v. Miracosta Community College Dist.* (2009, 4th Dist) 180 Cal App 4th 471, 102 Cal Rptr 3d 902, 2009 Cal App LEXIS 2031, rehearing denied *Page v. Miracosta Community College District* (2009, Cal. App. 4th Dist.) 2009 Cal. App. LEXIS 2041.

In a case concerning sewer assessments imposed by a public utility district against a property owner's property and the efforts undertaken by the district to enforce those assessments, the owner failed to allege sufficient facts to state a violation of the Ralph M. Brown Act, *Gov C §§ 54950 et seq.* Passing comments by the district's attorneys regarding a tax sale did not constitute a sufficient factual basis for a claim that the district secretly met and decided the matter beforehand. *Galbiso v. Oroshi Public Utility Dist.* (2010, 5th Dist) 182 Cal App 4th 652, 107 Cal Rptr 3d 36, 2010 Cal App LEXIS 289, review denied *Galbiso (Mary Jane) v. Oroshi Public Utility District* (2010, Cal.) 2010 Cal. LEXIS 5838.

4. Construction

The requirement of the Ralph M. Brown Act (*Gov C §§ 54950 et seq.*), that meetings of governmental bodies be open to the public, is not limited to gatherings at which action is taken by the relevant legislative body; deliberative gatherings are included as well. Deliberation in this context connotes not only collective decisionmaking, but also the collective acquisition and exchange of facts preliminary to the ultimate decision. To prevent evasion of the act, a series of private meetings (known as serial meetings) by which a majority of the members of a legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. 216 *Sutter Bay Associates v. County of Sutter* (1997, Cal App 3d Dist) 58 Cal App 4th 860, 68 Cal Rptr 2d 492, 1997 Cal App LEXIS 856.

In the absence of statutory authority, an argument that an appellate court should recognize a civil cause of action for aiding and abetting a violation of California's Ralph M. Brown Act, *Gov C §§ 54950 et seq.*, is rejected. Given the purpose of the Act, there is simply no need for such a claim. *Wolfe v. City of Fremont* (2006, Cal App 1st Dist) 144 Cal App 4th 533, 50 Cal Rptr 3d 524, 2006 Cal App LEXIS 1711, modified, rehearing denied (2006, Cal App 1st Dist) 2006 Cal App LEXIS 1891.

5. Compliance

In a case in which a community organization challenged a school district's decision to close two elementary schools, the organization did not sustain its claim that the district violated the Ralph M. Brown Open Meeting Act by not providing the organization with all of the public records given to members of the district's board at public meetings. The district complied with all relevant public records requests. *San Lorenzo Valley Community Advocates for Responsi-*

ble Education v. San Lorenzo Valley Unified School Dist. (2006, Cal App 6th Dist) 139 Cal App 4th 1356, 44 Cal Rptr 3d 128, 2006 Cal App LEXIS 801.

6. Standing

Citizen of the State of California was an "interested person" within the meaning of Gov C §§ 54960, 54960.1 of the Ralph M. Brown Act, Gov C §§ 54950 et seq., and had standing to sue a school district for violations of the Brown Act. *McKee v. Orange Unified School Dist.* (2003, Cal App 4th Dist) 110 Cal App 4th 1310, 2 Cal Rptr 3d 774, 2003 Cal App LEXIS 1160, review denied (2003, Cal) 2003 Cal LEXIS 8866.

Two members of a city council forfeited standing they would otherwise have had under the Ralph M. Brown Act, Gov C §§ 54950 et seq., as citizens of California to sue the city council for alleged violations of the Act when they accepted their seats on the city council. *Holbrook v. City of Santa Monica* (2006, Cal App 2d Dist) 144 Cal App 4th 1242, 51 Cal Rptr 3d 181, 2006 Cal App LEXIS 1810, review denied *Holbrook (Richard) v. City of Santa Monica* (2007, Cal) 2007 Cal LEXIS 1757.

Because government contracts that required the contractor to comply with the Ralph M. Brown Open Meetings Act, Gov C §§ 54950-54963, were made expressly for the public's benefit, an employee of a labor organization, as a member of the public, was a third party beneficiary of the contracts and was entitled under CC § 1559 to enforce the provisions requiring Brown Act compliance. Moreover, the contractor did not argue or show that the labor organization lacked standing to sue on behalf of its members to enforce a public right. *Service Employees Internat. Union, Local 99 v. Options-A Child Care & Human Services Agency* (2011, 2d Dist) 200 Cal App 4th 869, 2011 Cal App LEXIS 1407.

Because a government contractor was not a local agency as defined in Gov C § 54951, or a legislative body as defined in Gov C § 54952, a labor organization and its employee did not have standing under Gov C § 54960(a) to sue directly under the Ralph M. Brown Open Meetings Act, Gov C §§ 54950-54963, for failure to comply with the act as required by the contracts. The provisions allegedly violated, Gov C §§ 54954.2(a)(1), 54954.3(a), 54957.5(a), 54957.7(a), apply only to a legislative body. *Service Employees Internat. Union, Local 99 v. Options-A Child Care & Human Services Agency* (2011, 2d Dist) 200 Cal App 4th 869, 2011 Cal App LEXIS 1407.

7. Particular Determinations

Library commission did not violate the Ralph M. Brown Act, Gov C §§ 54950 et seq., by limiting public comment on each agenda item at a meeting of the commission to two minutes per speaker, instead of the three minutes normally allotted to each speaker. *Chaffee v. San Francisco Public Library Com.* (2005, Cal App 1st Dist) 134 Cal App 4th 109, 36 Cal Rptr 3d 1, 2005 Cal App LEXIS 1810.

City resident's allegations about the activities of the city council allowed the inference that, prior to a city council meeting, the council members had improperly reached a collective concurrence that they would not challenge a policy devised by the city police department to govern its response to activated home invasion alarms, and those allegations led directly to the inference that the council members had reached their consensus through the nonpublic discussions that occurred among them, thereby violating California's Ralph M. Brown Act, Gov C §§ 54950 et seq. Supporting that inference was the council members' decision to have the chief of police address them at the meeting in advance of the public comment period, an action that created the impression of a concerted effort to shape public perceptions of the new policy, and, accordingly, although the allegations of the complaint were not wholly free from ambiguity, they were sufficient to state a claim for a violation of Gov C § 54952.2(b) of the Brown Act. *Wolfe v. City of Fremont* (2006, Cal App 1st Dist) 144 Cal App 4th 533, 50 Cal Rptr 3d 524, 2006 Cal App LEXIS 1711, modified, rehearing denied (2006, Cal App 1st Dist) 2006 Cal App LEXIS 1891.

Decisions Under Former Law 1. Generally

Brown Act is not directed at anything less than formal meeting of city council or one of city's subordinate agencies. *Adler v. City Council of Culver City* (1960, Cal App 2d Dist) 184 Cal App 2d 763, 7 Cal Rptr 805, 1960 Cal App LEXIS 1932, superseded by statute as stated in *Stockton Newspapers, Inc. v. Redevelopment Agency* (1985, Cal App 3d Dist) 171 Cal App 3d 95, 214 Cal Rptr 561, 1985 Cal App LEXIS 2391, superseded by statute as stated in *Centinela Hospital Assn. v. City of Inglewood* (1990, Cal App 2d Dist) 225 Cal App 3d 1586, 275 Cal Rptr 901, 1990 Cal App LEXIS 1283, superseded by statute as stated in *Roberts v. City of Palmdale* (1993) 5 Cal 4th 363, 20 Cal Rptr 2d 330, 853 P2d 496, 1993 Cal LEXIS 3190.

Excluding a few exceptions, local governing bodies, elected by the people, exist to aid in the conduct of the people's business, and thus their deliberation should be conducted openly and with due notice. *Carlson v. Paradise Unified Sch. Dist.* (1971, Cal App 3d Dist) 18 Cal App 3d 196, 95 Cal Rptr 650, 1971 Cal App LEXIS 1374.

2. Legislative Intent

The Legislature intended that all state and local agencies be included under the provisions of some open meeting act (the Brown Act, *Gov C §§ 54950 et seq.*; the State Act, *Gov C §§ 11120 et seq.*), unless expressly excluded. *Torres v. Board of Commissioners* (1979, Cal App 5th Dist) 89 Cal App 3d 545, 152 Cal Rptr 506, 1979 Cal App LEXIS 1404.

The Brown Act (*Gov C §§ 54950 et seq.*), providing that all meetings of the legislative body of a local agency shall be open and public, reflects a legislative determination that public agencies in this state exist to aid in the conduct of the people's business, and an intent that their actions be taken openly and that their deliberations be conducted openly. The term "deliberation" has been broadly construed to connote not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision. Thus, the trial court erred in refusing to grant an injunction to restrain a board of education and its superintendent from conducting closed executive sessions, where the school board had met in a closed session with prospective contractors, a "consortium" of three real estate specialists, to discuss with those persons their qualifications to assist the board in disposing of surplus real property, where the specialists were engaged because of their expertise to perform special services and were not subject to control as to the details of its accomplishment, and thus were independent contractors and not employees as that term is generally used or as it is used in the exception contained in *Gov C §§ 54957*, permitting closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee, and where the meeting did not fall within any other exception to the general statutory requirement of open meetings. *Röwen v. Santa Clara Unified School Dist.* (1981, Cal App 1st Dist) 121 Cal App 3d 231, 175 Cal Rptr 292, 1981 Cal App LEXIS 1927.

3. Applicability

Action of city council in dismissing police officer is sufficient though this was not done at open and public meeting, notwithstanding provisions of this section, since § 54957 permits closed session to consider dismissal of officer or employee unless officer or employee requests public hearing. *Cozzolino v. Fontana* (1955, Cal App 4th Dist) 136 Cal App 2d 608, 289 P2d 248, 1955 Cal App LEXIS 1523.

4. Construction

To "deliberate" is to examine, weigh and reflect on the reasons for or against a choice, and in the context of the Brown Act (*Gov C §§ 54950 et seq.*), requiring that meetings and deliberations of local legislative bodies be conducted openly, "deliberation" connotes not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision, and it is only the misdemeanor penalty which is restricted to meetings "where action is taken". (*Gov C § 54959*). "Meetings" include any informal sessions designed for the discussion of public business. *Sacramento Newspaper Guild, etc. v. Sacramento County Board of Supervisors* (1968, Cal App 3d Dist) 263 Cal App 2d 41, 69 Cal Rptr 480, 1968 Cal App LEXIS 2179, superseded by statute as stated in *Funeral Sec. Plans, Inc. v. State Bd. of Funeral Directors & Embalmers* (1993, Cal App 3d Dist) 14 Cal App 4th 715, 18 Cal Rptr 2d 39, 1993 Cal App LEXIS 311.

The concept of "meeting" under the Brown Act (*Gov C §§ 54950 et seq.*) requiring all meetings of the legislative body of a local agency to be open and public (*Gov C § 54953*), comprehends informal sessions at which a legislative body commits itself collectively to a particular future decision concerning the public business, as well as formal meetings. *Stockton Newspapers, Inc. v. Redevelopment Agency* (1985, Cal App 3d Dist) 171 Cal App 3d 95, 214 Cal Rptr 561, 1985 Cal App LEXIS 2391.

The action of one public official is not a "meeting" within the terms of the Brown Act (*Gov C §§ 54950 et seq.*) (meetings of local governing bodies). A hearing officer whose duty it is to deliberate alone does not have to do so in public. Since the act uniformly speaks in terms of collective action, and because the term "meeting," as a matter of ordinary usage, conveys the presence of more than one person, it follows that under *Gov C § 54953*, the term "meeting" means that two or more persons are required in order to conduct a "meeting" within the meaning of the act. *Roberts v. City of Palmdale* (1993) 5 Cal 4th 363, 20 Cal Rptr 2d 330, 853 P2d 496, 1993 Cal LEXIS 3190.

The term "meeting," as used in the Ralph M. Brown Act (*Gov C §§ 54950, 54953*) requiring open public meetings, is not limited to gatherings at which action is taken by the relevant legislative body; deliberative gatherings are included