


A Tradition of Stewardship
A Commitment to Service

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THE BROWN ACT

Government Code sections 54950-54963



Ralph M. Brown, Modesto Assemblyman
from 1943-1961
Author of California's first "sunshine act"

The Brown Act—Open Meetings for Local Legislative Bodies



A Tradition of Stewardship
A Commitment to Service

PURPOSE OF THE BROWN ACT

Local agency decision-making bodies,
including advisory committees, must
conduct their business in
open and public meetings
to assure that the local decision-making
process is
observable by the public.

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The Brown Act Applies to GSPAC



GSPAC

GSA Resolution 2020-04 and GSPAC Bylaws:

PURPOSE: To advise the NCGSA Board of Directors on the preparation of a Groundwater Sustainability Plan (GSP), with policies and recommendations to manage the groundwater within the Napa Valley Subbasin to ensure its long-term protection and availability. Working with staff, consultants, and a facilitator in a public forum, the Committee shall submit a recommended GSP to the Board of Directors for consideration no later than November 1, 2021.

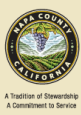


GSPAC

QUORUM = 13 of 25 members must be present in order to conduct GSPAC meeting.

ACTION ITEM: Approval by 2/3 of voting members.

- If 13 are present, 9 votes needed for approval.
 - If 21 are present, 13 votes are needed.
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WHO MUST COMPLY?

- ✓ Governing body of a local agency
- ✓ ADVISORY COMMITTEES (with exceptions)
- ✓ Standing committees of legislative body with either:
 - (a) continuing subject matter jurisdiction or
 - (b) a fixed schedule set by formal action

NOT: an ad hoc subcommittee with less than 13 GSPAC members and with a temporary duration.



AGENDAS

Must:

- Post in a location freely accessible to members of the public
 - State time and place of meeting and a brief general description of each item of business to be transacted or discussed
 - State ADA accessibility
 - Provide the address where non-confidential materials may be obtained.
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ITEMS ***NOT*** ON THE AGENDA

No action can be taken ... except:

- ✓ Majority decides there is an emergency situation pursuant to Government Code section 54956.5.
 - ✓ 2/3 of the members present vote that immediate action is needed, and the need came to board's attention after agenda was posted. (*Regular meetings only.*)
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RIGHTS OF THE PUBLIC

- ✓ The public may address matters on the agenda
Before or during consideration of the item, public must be given an opportunity to comment on the item.
 - ✓ When a member of the public raises an issue that is not on the agenda, the item may be briefly responded to BUT NO ACTION CAN BE TAKEN.
 - ✓ Documents distributed at a meeting are public records, unless otherwise exempted under the Public Records Act.
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BROWN ACT MEETINGS

Meeting = Congregation of majority (*13 members*)

- ✓ Same time and place,
- ✓ To hear, discuss, or deliberate,
- ✓ Agency business.

Meetings are gatherings where action is taken or where deliberations occur.

Deliberations: collective decision-making,
collective acquisition of facts, OR
exchange of facts before ultimate decision.



Virtual Meetings

Executive Order N-29-20 allows that:

The physical presence of a member, clerk, or other personnel as a condition of participation or creating quorum is waived.

- ii. As long as the entity holds a meeting via teleconference where the public can observe and address the meeting telephonic (or by other electronic means), the requirement that the entity provide one publicly available physical location is waived (the other requirements for telephonic meetings are still required).
 - iii. If the entity holds a meeting telephonically (or via other electronic means) it must:
 1. Have a procedure to resolve reasonable request for accommodation for those with disabilities and resolve any doubt in favor of accessibility ;
AND
 2. In each notice of the meeting, advertise the means by which the public can attend and comment.
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WHEN THE BROWN ACT DOES NOT APPLY

Meetings of other legislative bodies (e.g., *GSPAC members attending BOS or GSA meeting*)

Conferences open to the public (e.g. *annual association conferences*)

Social/ceremonial events (e.g. *bocce/pickle ball, wedding, retirement party, etc.*)

BUT . . . DON'T DISCUSS GSPAC BUSINESS!



REQUIREMENTS FOR MEETINGS

Location

- ✓ Within GSPAC jurisdiction

Agenda

- ✓ Except emergency meetings, all meetings must have an agenda posted in advance (Regular – 72 hours, Special – 24 hours).

Open and public

- ✓ All persons must be permitted to attend, no secret ballots, no secret meetings.

No conditions on attendance

- ✓ Cannot require sign-in or charge for attendance.
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NO Serial Meetings

You cannot conduct a series of communications of any kind,

- directly or through personal intermediaries or technological devices (*text, e-mail*)
- that ultimately involves a majority (*13 members*)
- to discuss, deliberate, or take action on GSPAC business
- without a noticed, agendaized meeting

SERIAL MEETINGS ARE PROHIBITED



Chain Meetings

One member talks to another member who then talks to another member. Frequently happens with forwarded emails or shared social media posts.

Member A talks to Member B,
Member B talks to Member C
Member C talks to Member D
about the same topic .





Hub and Spoke Meetings

One person acts as the center and communicates with the other members.

Member A talks to Member B...
Member A talks to Member C
Member A talks to Member D

about the same topic



CYBERSPACE MEETINGS

Blog or social media comments, sharing photos, articles, or comments might turn into a discussion among the Committee members and be considered a meeting in violation of the Brown Act.

**DO NOT DISCUSS GSPAC BUSINESS
ON SOCIAL MEDIA**



ELECTRONIC MESSAGES

A series of text messages (or emails) sent to committee members during a meeting are not allowed because members of the public are not privy to the content of the message.

A group text or email containing 13 *members* that relates to deliberations = a Brown Act violation.

Text messages and e-mails likely will be considered a public record.

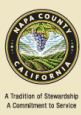


WHAT IS ALLOWED?

Individual contacts between a member and any other person is permitted.

Members have the right to confer with constituents, advocates, consultants, and colleagues.

HOWEVER, individual contacts about GSPAC business CANNOT be done in stages for what would be prohibited in one step.



Penalties & Remedies

Penalties and Remedies provided by the Legislature to combat violations of the Act include:

- Criminal penalties.
 - Civil injunctive relief.
 - Award of attorney's fees.
 - Actions taken (preliminary or final) in violation of Brown Act may be declared null and void by a court.
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Penalties & Remedies



It is a misdemeanor to attend a meeting where action is taken that violates the Brown Act and the member intends to deprive the public of information to which the Board member knows or has reason to know the public is entitled.

Misdemeanor is punishable by imprisonment in county jail and/or fine not to exceed \$1,000.



PUBLIC MEETINGS ARE OPEN MEETINGS

“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.”

- former Assemblyman William T. Bagley

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