

New Mayors and Council Members Academy

Wednesday, January 21, 2026
3:45 p.m. – 5:15 p.m.



Strengthening California Cities
through Advocacy and Education

Your Legal Powers and Obligations; Open Government & Conflicts of Interest

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Agenda

- City Powers and their Limitations
- General Law Cities v. Charter Cities
- Raising Revenue
- Open Government and Transparency
- Ethics
- Councilmembers' Role Concerning City Employees

Sources of Law

- United States Constitution
- Federal Statutes
- California Constitution
- State Statutes
- County Ordinances
- City Charters
- City Ordinances
- Other Jurisdictional Entities
- Court Decisions



Preemption

- Basic Rule: when there is a conflict between laws, the “higher” authority wins
- A “conflict” exists when:
 - A local enactment contradicts federal/state law
 - A local enactment duplicates federal/state law
 - A local enactment regulates an area “fully occupied” by federal/state law
- Home rule: charter cities have plenary authority over “municipal affairs;” state law governs “statewide concerns”

City Powers

- Constitution
 - Tax
 - Public Works
 - “Police Power”
- Statutes/Regulations
- Municipal Code
- Caselaw

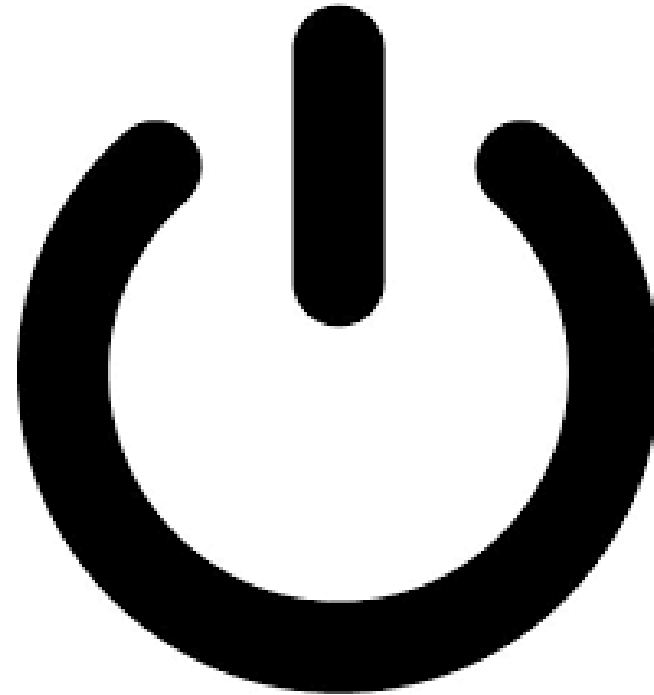


Police Power

- Granted by the California Constitution
- Power to regulate to further the public's health, safety, convenience and general prosperity
- Examples:
 - Land use regulations
 - Fire, building, public safety and neighborhood preservation regulations
 - Fees

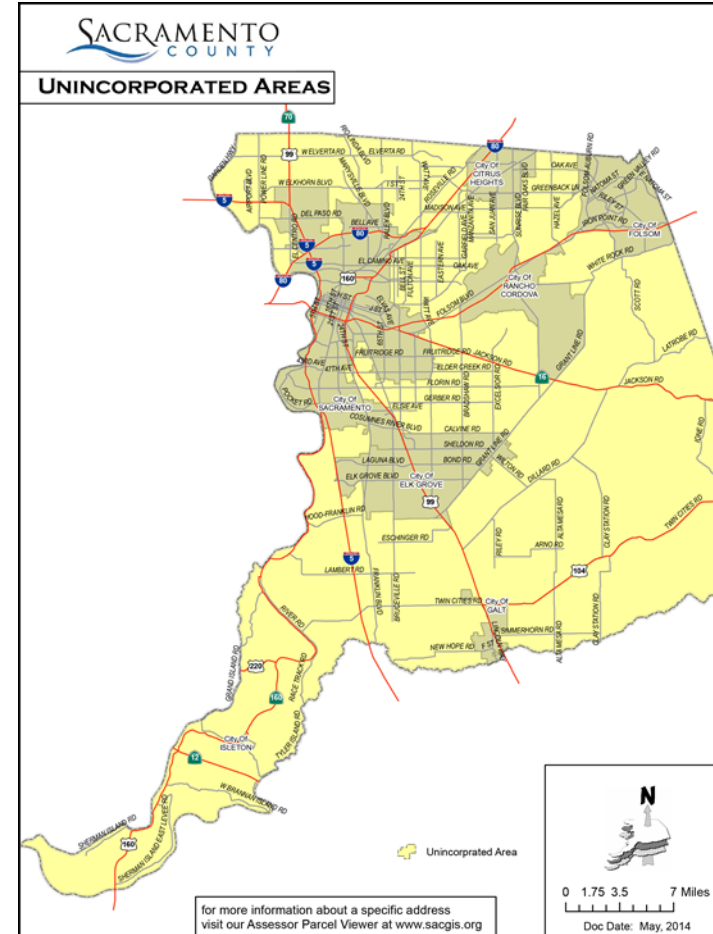
City Powers cont.

- Means of exercise
 - Ordinance
 - Resolution
 - Minute Order
- Legislative v. quasi-judicial
- Individual authority?



Limitations on Powers

- City limits
- No gifts of public funds
 - Expenditures must have a public purpose
- Preemption by state or federal law
- Manner of exercising
- Referendum/Initiative



General Law v. Charter Cities

- 121 charter cities
- General law cities are bound by state law
- Charter cities have preemptive authority over “municipal affairs”



Revenue Sources

- Taxes
 - General- requires majority voter approval
 - Special – requires 2/3 voter approval
 - Proposition 26 broadly defines tax unless an exemption applies
- Fees
- Assessments
- Debt Financing



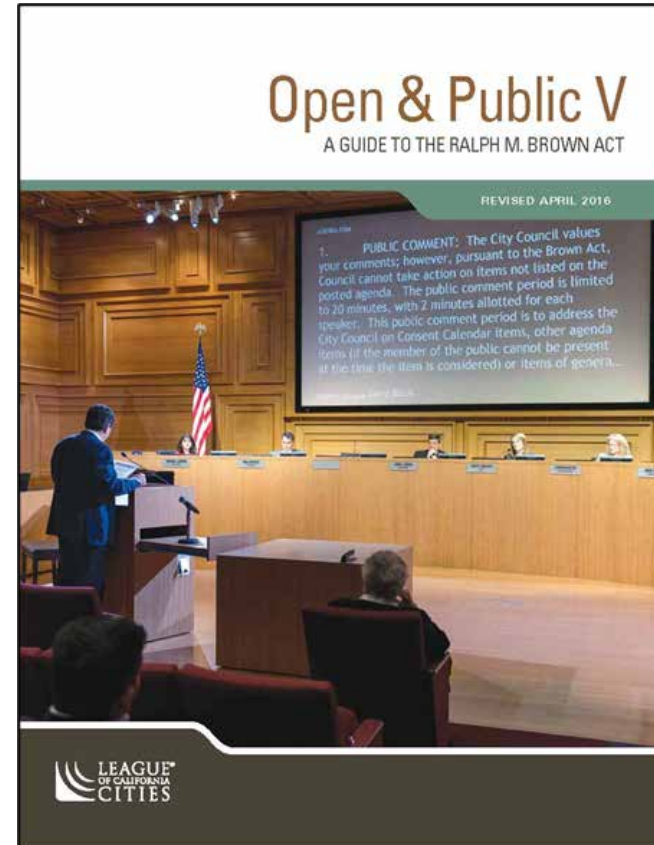
Open Government and Transparency

The People's Business A GUIDE TO THE CALIFORNIA PUBLIC RECORDS ACT



www.calcities.org/CPRAguide

Open & Public V A GUIDE TO THE RALPH M. BROWN ACT



www.calcities.org/BrownActguide

Brown Act

- Requires “meetings” of a “legislative body” to be “open and public”



“Legislative Body”

- Includes:
 - Governing body (city council)
 - Newly elected members who have not yet assumed office
 - Appointed bodies
 - Standing committees (regardless of composition)
 - Governing body of a private organization in limited circumstances



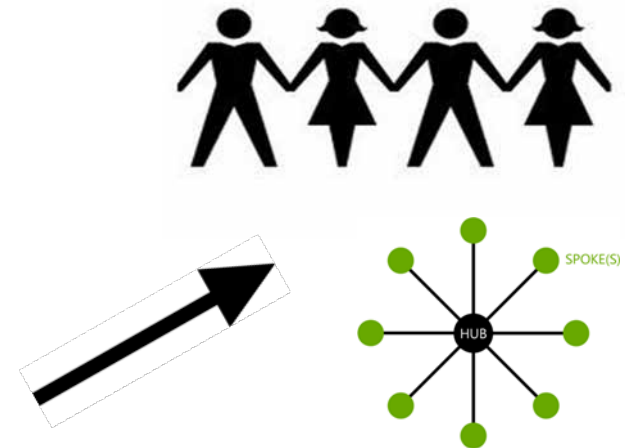
“Legislative Body”

- Does not include:
 - Temporary advisory committees composed of less than a quorum
 - Groups that advise a single decision maker



“Meetings”

- Includes:
 - Any gathering of a majority of the legislative body “to hear, discuss, deliberate, or take action” on a matter within the agency’s subject matter jurisdiction
 - Collective briefings
 - Legislative retreats
 - “Serial meetings”
 - Daisy chains or hub-and-spoke meetings
 - Use caution with email/social media



“Meetings”

- Use of email or other technology/media by a majority of a legislative body to discuss, deliberate, or take action on items within the body’s jurisdiction violates the Brown Act
- Social media legislation: AB 992 (2020); SB 707 (2025)
 - Clarifies communications officials can have on social media platforms open to the public
 - Officials can communicate on social media but should not directly respond/react to anything posted/shared regarding city business by another member of the legislative body



“Meetings”

- Does not include:
 - Individual contacts or staff briefings
 - Conferences
 - Community meetings
 - Meetings of other legislative bodies
 - Social and ceremonial gatherings
 - Attending standing committee meeting

“Open and Public”

- Includes:
 - Notice
 - Must post agenda in advance containing brief general description of items to be discussed
 - 72 hours for regular meeting
 - 24 hours for special meeting
 - Also on website
 - Teleconferencing rules
 - Generally cannot discuss non-agenda items
 - Public Comment on agenda and non-agenda items



“Open and Public”

- Teleconferencing and remote meeting participation – Post SB 707
- Traditional teleconferencing still permitted (§54953(b))
 - Remote location(s) identified on the agenda
 - Agenda timely posted at remote location
 - Remote location(s) accessible to the public, public participation permitted from that location
 - Quorum of council participating within the city
 - Votes by roll call

“Open and Public”

- Teleconferencing and remote meeting participation – SB 707
- Remote participation may be a reasonable accommodation (§54953(c))
 - Participation by audio and video required unless disability results in need to participate off camera
 - Remote member must disclose if anyone over 18 is present in remote location, and the member’s relationship with the person present

“Open and Public”

- Teleconferencing and remote meeting participation - SB 707
- Remote meetings in state or local emergencies and for just cause (§54953.8)
 - Identification of remote location on agenda, remote posting and opportunity to participate at remote location *not* required
 - Public allowed to participate remotely by audio/video or telephone
 - Notice of how public can participate remotely included in agenda

“Open and Public”

- Teleconferencing and remote meeting participation - SB 707
- Remote meetings in state or local emergencies and for just cause (§54953.8) cont.
 - If remote communications disrupted, actions must stop until communications restored
 - Public comments cannot be required in advance
 - Platforms that require participant registration may be used
 - Cannot close public comment until timed period expires

“Open and Public”

- Teleconferencing and remote meeting participation - SB 707
- Additional rules for remote meetings in state or local emergencies (§54953.8.2)
 - Determine by majority vote if meeting in person would present imminent risk to attendees
 - Every 45 days after determination council must reconsider the emergency circumstances and find the emergency continues to directly impact the ability of the members to meet safely in person

“Open and Public”

- Teleconferencing and remote meeting participation - SB 707
- Additional rules for remote meetings for good cause (§54953.8.3)
 - Quorum must participate from single location in city open to the public
 - The member with just cause must notify the council as soon as possible, including at the start of the meeting, of just cause for remote participation
 - Remote member must participate through a/v

“Open and Public”

- Teleconferencing and remote meeting participation – SB 707 Hybrid Meetings
- Effective July 1, 2026, cities with populations of 30,000 or more must offer two-way remote participation
 - Must offer two-way audiovisual or telephone participation for the public when two-way remote services are operational
 - Adopt at a noticed public meeting (not on consent agenda) a policy on disruption of remote services, including: recessing for at least 1 hr. while attempting to restore service; if service not restored, adoption of findings of good faith attempt and public interest in continuing outweighs public interest in remote access

“Open and Public”

- Other SB 707 requirements
 - Copy of Brown Act to be provided to all legislative body members
 - Oral report prior to action on executive compensation now also applies to department heads
 - Effective July 1, 2026, agendas must be translated into languages spoken by 20% or more of the population
 - Effective July 1, 2026, cities with populations of 30,000 or more must provide specified assistance for translation of public meetings, and take specified actions to encourage public participation by residents in underrepresented and non-English speaking communities

“Open and Public”

- Closed session exceptions
 - Examples:
 - Litigation
 - Real Estate Negotiations
 - Public Employment
 - Labor Negotiations
 - Requirements:
 - Agenda – “safe harbor” descriptions
 - Public comment before closed session
 - Public report of actions and votes
 - Confidentiality



Public Records Act

- Reasonably identified “public records” must be disclosed on request unless they are “exempt”



“Public Records”

- Includes:
 - Any writing containing information relating to the conduct of the public’s business that is prepared, owned, used or retained by the agency regardless of physical form or characteristic
 - Electronic records
 - *City of San Jose v. Sup. Ct. (Smith)*: “writings about public business are not excluded simply because they have been sent, received or stored in a personal account.”



“Public Records”

- Exempt from disclosure:
 - Statutory list of exemptions
 - Records exempt under federal or state law
 - “Catchall” or “Public Interest” exemption allows nondisclosure where the public interest in nondisclosure clearly outweighs the public interest in disclosure



Ethics

- Political Reform Act
 - Prohibits officials from making, participating in, or influencing a governmental decision in they have a disqualifying financial interest
 - Reporting obligations
- Government Code Section 1090
 - Prohibits officials from having a financial interest in their agency's contracts
- Common Law conflicts
- Incompatible Offices – Section 1099
 - Prohibits public officials from holding multiple offices that are incompatible with one another

Councilmember's Role with Respect to City Employees

- Typically, the council has appointing, disciplining, terminating authority over the council direct reports (e.g., city manager, city attorney, city clerk - if appointed)
- Generally, council lacks appointing, disciplining, terminating authority over other city employees



City Council-City Attorney Relationship

- City is the client, not individual members
- Consult the city attorney early and often
- Anticipate that the city attorney and city manager will coordinate on feedback to council questions
- Recognize that a simple answer is not always possible or adequate

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