COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES AGENCY

LIVE WELL SAN DIEGO

Community Action Board

Helping People. Changing Lives.
community Action PARTNERSHIP
COUNTY OF SAN DIEGO

Orientation Guide

BOARD OF SUPERVISORS

Vacant, District 1

Joel Anderson, District 2

Terra Lawson-Remer, District 3

Monica Montgomery Steppe, District 4

Jim Desmond, District 5

LIVE WELL SAN DIEGO

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www.sdcountycap.org

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Suite 720
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Board of Supervisors

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District 2

Terra Lawson-Remer
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Jim Desmond
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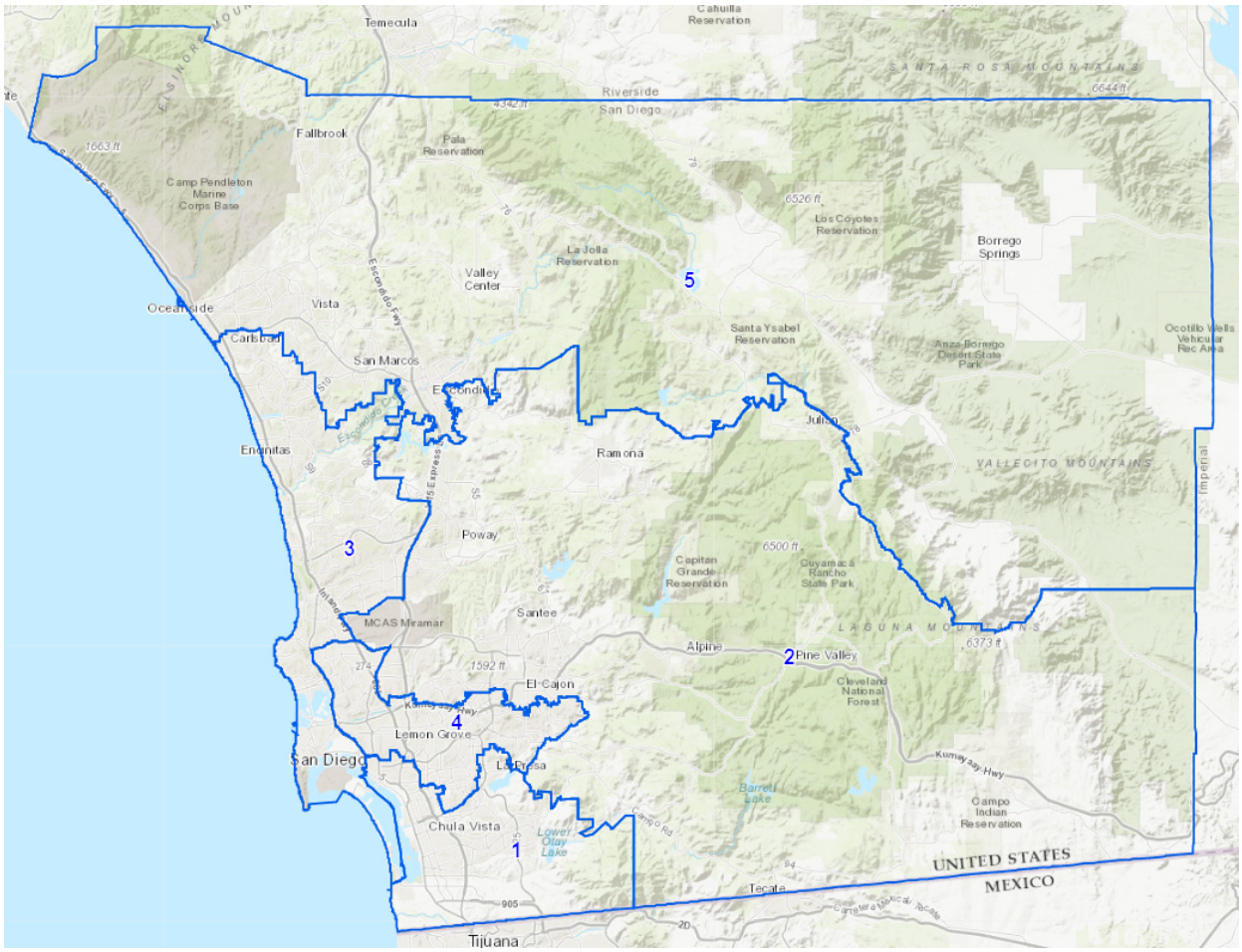
Vacant
District 1

Find My District



The Promise of Community Action

"Community Action changes people's lives, embodies the spirit of hope, improves communities, and makes America a better place to live. We care about the entire community, and we are dedicated to helping people help themselves and each other."

What Is A Community Action Agency?

Community Action Agencies are private non-profit or public organizations that were created by the federal government in 1964 to combat poverty in geographically designated areas. Status as a Community Action Agency is the result of an explicit designation by local or state government. A Community Action Agency has a tripartite board structure that is designated to promote the participation of the entire community in the reduction or elimination of poverty. Community Action Agencies seek to involve the community, including elected public officials, private sector representatives, and especially low-income residents in assessing local needs and attacking the causes and conditions of poverty.

Purpose

In order to reduce poverty in its community, a Community Action Agency works to better focus available local, state, private, and federal resources to assist low-income individuals and families to acquire useful skills and knowledge, gain access to new opportunities and achieve economic self-sufficiency.

Mission

To create a sustainable, resilient, and equitable community that empowers the economically underserved to thrive through collaborative partnerships.

Structure

A Community Action Agency:

- Has received designation as a Community Action Agency either from the local government under the provisions of the Economic Opportunity Act of 1964, or from the state under the Community Services Block Grant Act (CSBG) of 1981, as amended;
- Is recognized as an eligible entity as defined in the CSBG Act and can receive funding from the state under the Community Services Block Grant;
- Has a governing board consisting of at least one –third democratically selected representatives of low-income people, one-third local public officials or their designees, and the remainder representatives of business, industry, labor, religious, social welfare, and other private groups in the community; and
- Belongs to a national network of similar agencies, the majority of which received their initial designation, federal recognition and funding under the amended Economic Opportunity Act of 1964.

Mode of Operation

A Community Action Agency carries out its mission through a variety of means including; (a) community-wide assessments of needs and strengths, (b) comprehensive anti-poverty plans and strategies, (c) provision of a broad range of direct services, (d) mobilization of financial and non-financial resources, (e) advocacy on behalf of low-income people and (f) partnerships with other community-based organizations to eliminate poverty. A Community Action Agency involves the low-income population it serves in the planning, administering and evaluating of its programs.

Why Community Action Agencies Are Unique

Most poverty-related organizations focus on a specific area of need, such as job training, health care, housing, or economic development. Community Action Agencies reach out to low-income people in their communities, address their multiple needs through a comprehensive approach, develop partnerships with other community organizations, involve low-income clients in the agency's operations, and administer a full range of coordinated programs designed to have a measureable impact on poverty.

COMMUNITY ACTION PARTNERSHIP

HISTORY

Today's Community Action Program is a descendant of the Johnson Administration's "War on Poverty." Major regulatory changes occurred during the Nixon Administration, but the basic anti-poverty mission of the program has not changed. It is now funded through the Community Services Block Grant.

Purpose of the Community Services Block Grant Program

Public Law 105-285, "Title II – Community Services Block Grant Program," Section 672:

"(1) to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off of State program carried out under Part A of title IV of the Social Security Act (42 U.S.C 601 et seq.); and

"(2) to accomplish the goals described in paragraph (1) through –

"(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

"(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

"(C) the greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and community breakdown;

"(D) the maximum participation of resident of the low-income communities and members of the groups served by programs assisted through the block grants made under this subtitle to empower such residents and members to respond to the unique problems and needs within their communities; and

"(E) the broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role in the provision of services for –

> "(i) private, religious, charitable, and neighborhood-based organizations; and
>
> "(ii) individual citizens, business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor."

The Community Action Agency originally designated for San Diego County was a non-profit corporation called the Economic Opportunity Commission. In 1975 the Board of Supervisors voted to assume responsibility for the Community Action Programs and named the County of San Diego as the Community Action Agency for the region. In 1977 the Board of Supervisors established the Community Action Partnership Administering Board in accordance with California and federal statutes.

The composition and responsibilities of the CAP Board comply with **Section 12752.1 of the California Government Code**, which reads as follows:

(a) If a political subdivision or local government establishes itself as a community action agency, it shall do all of the following:
   (1) Establish a tripartite board to provide input to the political subdivision or local government regarding the activities of the community action agency.
   (2) Share with its tripartite board the determination of the community action agency's program plans and priorities.
   (3) Provide for the participation of the administering board in the selection of the executive director of the community action agency, unless prohibited by local law, city charter, or civil service procedure.

(b) The political subdivision or local government may, consistent with general and local law, delegate any or all of the following powers to the administering board:
   (1) To determine its own rules and procedures and to select its own officers and executive committee.
   (2) To determine, subject to the ratification of designating officials, the community action agency's major personnel, organizational, fiscal, and program policies.
   (3) To approve, subject to the ratification of designating officials, all program proposals, budgets and delegate agency agreements.
   (4) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency.

Membership of the Community Action Partnership Board

The Board of Supervisors established a tripartite board of 15 members. The Public sector consists of five members, each of whom is appointed by a County Supervisor. The Economically Disadvantaged sector consists of five members, one member each representing the "North Central, North Regional, East Regional, South Regional and Central Regional districts. The Private sector is set at five members.

Responsibilities Delegated to the Community Action Partnership Board

The Board of Supervisors assigned the following powers, duties, and responsibilities to the CAP Board, as listed in the CAP Board's bylaws.

1. Establish processes for planning, allocation, and public hearings regarding the use of Community Action funds.
2. Establish membership, composition, standards, and election procedures.
3. Selects its own officers, executive committee, and other committees.
4. Participate jointly with the Designating Officials and concur in the selection of the Community Action Partnership Director.
5. Review policies relating to program of the Community Action Partnership, and recommend to the Board of Supervisors the adoption of such policies as it may deem necessary and desirable.
6. Establish an appeals process to provide recourse for program(s) seeking relief in connection with disputes with the Community Action Partnership.
7. Supervise the administration of all funding source policies and standards, and all programs, administrative, and financial policies and regulations adopted by the Designating Officials.
8. Participate in the development and implementation of all programs and projects designed to serve the economically disadvantaged or low-income areas to assure maximum feasible participation of residents of the areas and members of groups served.
9. Provide a forum for the economically disadvantaged and concerned residents to allow a mechanism for securing broad community involvement in the programs.
10. Communicate directly with the funding source at any time concerning matter of current importance.
11. Determine, subject to funding source policies, rules and procedures for the Community Action Board.
12. Exercise all powers, which the Designating Officials may delegate.

The Community Action Board shall deliberate upon the following matters and submit written recommendations to the Designating Officials before they render a final decision whenever the Designating Officials have not specifically delegated these powers;

a. Determination of major personnel, organization, fiscal, and program policies, subject to funding source policies;
b. Determination of overall program plans and priorities;
c. Approval of all program proposals and budgets;
d. Approval of all evaluation and assessment studies and reports; and
e. Approval of all arrangements for delegating and planning, conducting, or evaluating a component of the work program.

The Community Action Board has the right to (1) request reasonable advance notice of and an opportunity to make recommendations to the Designating Officials concerning the exercise of all powers, which those Officials have not delegated to the Community Action Board; and (2) perform other such duties and responsibilities as may be assigned by the Board of Supervisors.

California Government Code Section 12761 states that:

A community Action Agency shall not use funds received under this article to replace discontinued state or local funding.

NAME: **COMMUNITY ACTION PARTNERSHIP ADMINISTERING BOARD OF THE COUNTY OF SAN DIEGO**

LEGAL AUTHORITY: Mandated by Federal Law: US Code Title 42, Chapter 106, § 9910. Established by Resolution adopted 6/28/77 (118). Amended by Resolution adopted 9/6/77 (217); By-Laws revised 2/16/88, Communications Received No. 20; Expenses and mileage reimbursement established by County Administrative Code, Article XXVI-A, Sections 471, 472 and 484; By-Laws revised 1/6/2004 (10); By-Laws revised 9/25/12 (7).

MEMBERS APPOINTED BY: Board of Supervisors

MEMBERSHIP COMPOSITION: This Board consists of 15 members and 10 alternates (representatives of the Economically Disadvantaged and Private Sectors only), who shall be residents of the County of San Diego, as follows:

Board of Supervisors Representatives - Public Sector (Five Members)

Five members appointed by the Board of Supervisors shall represent the Public Sector.

Representatives of Economically Disadvantaged Sector – (Five Members (and their alternates)

Five members (and their alternates) nominated by the Community Action Board and confirmed by the Board of Supervisors

- East Region - (1 representative and 1 alternate)
- Central Region - (1 representative and 1 alternate)
- North Region - (1 representative and 1 alternate)
- North Central Region - (1 representative and alternate)
- South Region - (1 representative and 1 alternate)

Private Sector Representatives – Five Members

Five organizations nominated by the Community Action Board and confirmed by the Board of Supervisors

At Large - (1 representative and 1 alternate per organization)

TERMS:

Public Sector (4-Year Term)
A representative nominated by a County Supervisor and confirmed by the Board shall serve four (4) years, concurrent with the nominating Supervisors' term of office. The re-election of a member of the Board of Supervisors for a succeeding term **shall not automatically** extend the term of a Public Sector representative. Members of the Public Sector shall serve during their terms at the will and pleasure of their appointing authorities.

Economically Disadvantaged Sector (3-Year Term)
Representatives of the Economically Disadvantaged Sector shall serve three years, unless otherwise specified. If the vacancy for which a new member or alternate has been selected occurs before the expiration of the previous incumbent's term, the new member or alternate is selected for the unexpired portion of that term.

Private Sector (3-Year Term)
Representatives of the Private Sector shall serve three (3) years, unless otherwise specified. If the vacancy for which a new member or alternate has been selected occurs before the expiration of the previous incumbent's term, the new member or alternate is selected for the unexpired portion of that term.

Note: Alternates shall have the same terms of membership as their corresponding representatives in the Economically Disadvantaged Sector and Private Sector.

DUTIES:

The Board shall have the following powers, duties and responsibilities:

1. Establish processes for planning, and public hearings regarding the use of community action funds. Make recommendations on CAP's allocation of program resources. The final results shall be submitted in the form of recommendations to the Board of Supervisors for action;
2. Assist and ensure membership composition, standards and election procedures;
3. Selects its own officers, executive committee, and other committees.
4. Review policies relating to programs of the Community Action Partnership, and recommend to the Board of Supervisors the adoption of such policies as it may deem necessary and desirable.
5. Participate in the development and implementation of all programs and projects designed to serve the economically

disadvantaged or low-income areas to assure maximum feasible participation of residents of the areas and members of groups served.

6. Provide a forum for the economically disadvantaged and concerned residents to allow a mechanism for securing broad community involvement in the programs.

7. Determine, subject to funding source policies, rules and procedures for the Community Action Board.

8. Exercise all powers which the Delegating Officials may delegate.

The Community Action Board has the right to (1) request reasonable advance notice of and an opportunity to make recommendations to the Designating Officials concerning the exercise of all powers which those Officials have not delegated to the Community Action Board; and (2) perform such other duties and responsibilities as may be assigned by the Board of Supervisors.

MEETING DATE AND LOCATION:

Second Thursday, 3:30 p.m.
Seville Plaza
5469 Kearny Villa Road, Suite 3700
San Diego, CA 92123

COMPENSATION:

Members of the Administering Board shall serve without compensation.

Administering Board Members shall be reimbursed for expenses incurred in performing their duties pursuant to the County Administrative Code, Article XXVI-A, Sections 471, 472 and 484.

CONTACT PERSON:

Deanna Zotalis-Ferreira
Health & Human Services
Mail Stop: W-294
619-518-4442

REVISED: December 2022

Department of Health and Human Services
Office of Equitable Communities (OEqC)

Community Action Partnership (CAP) Strategic Plan 2023-2028



The work of OEqC is rooted in the idea that a prosperous economic future requires finding new ways to connect the disconnected to greater economic opportunities, as well as working to improve physical and social environments that allow them to thrive. OEqC consists of three teams – CAP, Community Health and Engagement Team, and Regional Community Coordinators.

HHSA Strategic Plan

VISION	MISSION	VALUES	CORE COMPETENCY
A region that is building better health, living safely, and thriving to advance a just, sustainable, and resilient future for all.	To make people's lives healthier, safer, and self-sufficient by delivering essential services in San Diego County.	In recognition that "The noblest motive is the public good", we are dedicated to: Integrity | Equity | Access | Belonging | Excellence | Sustainability.	Advancing Opportunities for All San Diegans to Live Well.

HHSA has identified six Agency Strategic Initiatives that drive long-term performance excellence and focus efforts on goals to deliver increasing value to the people served.

Sustainability | Workforce | Community Engagement | Equity | Service Delivery Coordination | Systems & Technology

Community Action Partnership Strategic Plan:

Vision: Community Action changes people's lives, embodies the spirit of hope, improves communities, and makes America a better place to live. We care about the entire community, and we are dedicated to helping people help themselves and each other.

Mission: To create a sustainable, resilient, and equitable community that empowers the economically underserved to thrive through collaborative partnerships.

For more information, to answer any questions, and to find links to other resources:

QR Code
CAP Website

Visit
www.sdcountycap.com

Dial
(619) 338-2799

Community Action Partnership (CAP) Strategic Plan 2023-2028

County of San Diego Strategic Initiative	County Strategic Goal	Alignment with HHSA Goal	Community Action Partnership Goal
Sustainability	**Resiliency:** Ensure the capability to respond and recover to the immediate needs for individuals, families, and the region.	Promote a resilient economy, climate, environment, and region for all.	Increase the number of low-income residents engaged in activities that improve the **health, safety, and well-being** of their communities.
Community	**Engagement:** Inspire civic engagement by providing information, programs, public forums or other avenues that increase access for individuals or communities to use their voice, their vote, and their experience to impact change. **Safety:** Support safety for all communities, including protection from crime, availability of emergency medical services and fire response, community preparedness, and regional readiness to respond to a disaster.	Strengthen and invigorate communities with opportunities to grow, connect, and thrive.	Ensure opportunities for **civic engagement.** Support **homelessness prevention** efforts for high-risk and high-need populations.
Equity	**Health:** Reduce disparities and disproportionality and ensure access for all through a fully optimized health and social service delivery system and upstream strategies. **Economic Opportunity:** Advance opportunities for economic growth and development to all individuals and the community.	Equitable access to better health, safety, and opportunities to thrive that enhance well-being.	Expand opportunities for low-income individuals, families, and communities to **access healthy and affordable food.** Expand **access to healthcare** and health and wellness education for low-income individuals. Increase the number of low-income individuals engaged in **financial literacy and supportive services.** Provide opportunities for low-income individuals to obtain a **living wage** through training and employment opportunities

County of San Diego

COMMUNITY ACTION BOARD
BY-LAWS

ARTICLE 1
PURPOSE AND AUTHORITY

Section A Establishing Authority

In its capacity as the local Community Action Agency, and in accordance with California Government Code §12752.1, the County of San Diego established the Community Action Partnership Administering Board in a Resolution adopted by the Board of Supervisors on June 28, 1977 (118) and amended on September 6, 1977 (217).

Section B Purpose

In accordance with County of San Diego Board of Supervisors Policy A-74, Citizen Participation on County Boards, Commissions and Committees, the Community Action Partnership Administering Board, hereinafter referred to as the Community Action Board, advises the Board of Supervisors and the Health and Human Services Agency on matters related to poverty and programs designed to increase self-sufficiency among the low-income population.

Section C Community Action Board

The Community Action Board is a non-partisan, non-sectarian, non-profit making organization. It does not take part officially in, nor does it lend its influence to any political issues.

Section D Type of Board

The Community Action Board is advisory to the Health and Human Services Agency, the Chief Administrative Officer and the Board of Supervisors only. The Community Action Board is not empowered by ordinance, establishing authority or policy to render a decision of any kind on behalf of the County of San Diego or its appointed or elected officials.

ARTICLE 2
MEMBERSHIP AND TERM OF OFFICE

Section A Designating Officials

The Designating Officials of the Community Action Board are the County of San Diego Board of Supervisors.

Public Sector members to the Community Action Board are appointed by the Designating Officials.

Economically Disadvantaged Sector and Private Sector members of the Community Action Board are nominated by the Community Action Board and confirmed by the Designating Officials.

Section B Board Structure

In accordance with California Government Code § 12751, the Community Action Board has a tripartite board structure.

The Community Action Board is limited to fifteen (15) members and ten (10) alternates (representatives of the Economically Disadvantaged and Private Sectors only), who shall be residents of San Diego County, in accordance with the establishing authority, as follows:

- Five members appointed by the Board of Supervisors shall represent the Public Sector;
- Five members (and their alternates) nominated by the Community Action Board and confirmed by the Board of Supervisors shall represent the Economically Disadvantaged Sector; and
- Five members nominated by the Community Action Board and confirmed by the Board of Supervisors shall represent the Private Sector.

The composition of the Community Action Board shall be:

<u>Public Sector (5 members)</u>	
First Supervisorial District	(1 representative)
Second Supervisorial District	(1 representative)
Third Supervisorial District	(1 representative)
Fourth Supervisorial District	(1 representative)
Fifth Supervisorial District	(1 representative)
<u>Economically Disadvantaged Sector (5 members)</u>	
East Region	(l representative and 1 alternate)
North Central Region	(l representative and 1 alternate)
North Region	(l representative and 1 alternate)
South Region	(l representative and 1 alternate)
Central Region	(1 representative and 1 alternate)
<u>Private Sector (5 members)</u>	
At Large	(5 representatives and 5 alternates)

Alternate representatives shall attend and vote in the absence of regular members. Alternate representatives shall not serve as officers of the Community Action Board, nor be voting members of committees unless they are voting in the absence of the primary representative.

The Community Action Board may periodically review target population statistics to determine accurate representation for the Economically Disadvantaged Sector.

Section C Membership Terms

The Term of Membership of representatives in each Sector shall be:

Public Sector: A representative nominated by a County Supervisor and confirmed by the Board of Supervisors shall serve for four years, concurrent with the nominating Supervisor's term of office. A term shall expire when the nominating Supervisor's term expires or when the Supervisor leaves office, whichever occurs first. However, pursuant to Section F. 2, members of the Public Sector shall serve during their terms at the will and pleasure of their appointing authorities. A representative to the Public Sector whose term has expired shall continue to discharge the duties as a member of the Community Action Board until a successor has been nominated and confirmed. The re-election of a member of the Board of Supervisors for a succeeding term shall not automatically extend the term of a Public Sector representative on the Community Action Board.

Economically Disadvantaged Sector: Representatives shall serve three years unless another term is specified by the Board of Supervisors at the time of the representative's appointment. If the vacancy for which a new member or alternate has been selected occurs before expiration of the previous incumbent's term, the new member or alternate is selected for the unexpired portion of that term.

Private Sector: Representatives shall serve three years, unless another term is specified by the Board of Supervisors at the time of the representative's appointment.

If the vacancy for which a new member organization has been selected occurs before expiration of the previous incumbent's term, the new member is selected for the unexpired portion of that term.

Additional Terms: Members and alternates in the Economically Disadvantaged and Private sectors who have served a term or portion of a term shall, at their request, be considered equally along with non-incumbent candidates for selection as a member or alternate for a new term, consistent with the selection process described in Article 2, Sections D2 and D3.

In accordance with Section D.1.(b) of Board of Supervisors Policy A-74, Citizen Participation In County Boards, Commissions And Committees, membership in the Economically Disadvantaged and Private sectors of the Community Action Board shall be limited to two consecutive terms. For the purpose of this limitation, a term shall include any appointments to fill a vacancy for one-half or more of a term. Members of a citizen committee whose terms have expired shall continue to serve until such time as they are either replaced or reappointed.

Alternates shall have the same terms of membership as their corresponding representatives in the Economically Disadvantaged Sector and Private Sector.

Section D Selection of Members

Members of the Community Action Board shall be selected as described in this section.

1. Public Sector: The Board of Supervisors (Designating Officials) has the sole power to appoint members to this sector. Each member of the Board of Supervisors may serve on the Community Action Board or appoint one representative. When a vacancy occurs within the Public Sector, the appropriate Supervisor will nominate a representative to fill the vacancy.

   Representatives for the Economically Disadvantaged and Private Sectors and alternates for the Economically Disadvantaged and Private Sectors shall be nominated by the Community Action Board and confirmed by the Board of Supervisors.

2. Economically Disadvantaged Sector: The Community Action Board shall nominate five members and one alternate for each member to represent designated geographic areas. The

areas shall be fairly apportioned on the basis of the distribution of the economically disadvantaged population.

The Community Action Board shall maintain a file containing the applications of persons interested in representing the economically disadvantaged population. The Community Action Board may delegate maintenance of the file to Community Action Partnership staff. The file shall be developed and updated as set forth below.

- The process for soliciting interested persons shall be open and inclusive.
- The members and the alternate representatives for the Economically Disadvantaged Sector are selected through this process.
- Public notices shall be sent to organizations such as community-based organizations, churches, and other social service agencies within the geographic area from which candidates are being solicited. Each notice shall be accompanied by a cover letter correspondence requesting that the recipient organization post the notice in a location readily visible to members of the public.
- Notices shall announce an opportunity to apply to represent the economically disadvantaged population on the Community Action Board and shall include the name and telephone number of a Community Action Partnership staff person who can provide more information.
- Press releases will be issued to newspapers, including ethnic and neighborhood publications, and will contain the name and telephone number of a Community Action Partnership staff person who can provide more information.
- The staff person will respond to telephone calls with a brief description of the composition and purpose of the Community Action Board and an offer to forward more information and an application form to the caller.
- The names, addresses, and telephone numbers of persons who return applications will be placed on a roster organized by geographic area. Applications will be retained in a file for a minimum of two years.
- When a vacancy occurs, or is about to occur, the Nominating Committee shall review the roster and applications on file for that geographic area. The Nominating Committee may choose to supplement the pool of applicants through additional outreach and advertising.
- The Nominating Committee will review applications, interview applicants, and make nomination recommendations for consideration by the full Community Action Board.
- After the full Community Action Board acts on the Nominating Committee's recommendations, the Chairperson will sign letters notifying applicants of the Nominating Committee's recommendation to the Board of Supervisors for their approval.
- Applications of persons not selected for current vacancies will remain on file for a minimum of two years, to be retrieved and considered by the Nominating Committee when new vacancies occur.
- If the vacancy for which a new member or alternate has been selected occurred before expiration of the previous incumbent's term, the new member or alternate is selected for the unexpired portion of that term
- The new member(s) will be seated at the next regular Community Action Board meeting following Board of Supervisors' confirmation of the appointee.
- If the Board of Supervisors does not confirm the proposed new member, the selection process will be repeated.

3. Private Sector: The Community Action Board nominates five private sector organizations representing business, industry, labor, religions, welfare, social service, education, or other significant groups and interests within the community.

   The Community Action Board shall maintain a file containing the names and addresses of private, not-for-profit and for-profit organizations who may potentially be interested in being represented on the Community Action Board. The Community Action Board may delegate maintenance of the file to Community Action Partnership staff. The file shall be developed and updated as set forth below.

   - The process for soliciting interested organizations shall be open and inclusive.
   - Members of the Community Action Board and/or its Nominating Committee shall propose the names of organizations whose activities suggest a possible interest in and potential asset to the Community Action Board.
   - Community Action Partnership staff shall update the list as to addresses, telephone numbers, and names and titles of chief executive officers.
   - When a vacancy occurs, or is about to occur, the Nominating Committee shall review the list of organizations. The Nominating Committee may decide to expand the list by adding organizations.
   - Community Action Partnership staff shall send letters inviting organizations to respond if they are interested in being represented on the Community Action Board. Letters shall include a description of the purpose and composition of the Community Action Board and the application form by which organizations may signal their potential interest.
   - The Nominating Committee shall nominate organizations to be recommended to the Community Action Board. Nominations may be based on written information solicited from interested representatives, or by face-to-face interviews, or by a combination of methods. No organization shall be nominated whose representative, or alternate representative, is an employee of the County of San Diego.
   - After the full Community Action Board acts on the Nominating Committee's recommendations, the Chairperson will review letters notifying the applicant organizations of the Nominating Committee's recommendation to the Board of Supervisors for their approval.
   - If the vacancy for which a new member organization has been selected had occurred before expiration of the previous incumbent's term, the new member organization is selected for the unexpired portion of that term.
   - A new member organization shall be notified of acceptance after approval by the Community Action Board and confirmation by the Board of Supervisors.
   - The representative of a new member organization shall be seated at the next regular Community Action Board meeting following the Board of Supervisors' confirmation of the appointment.
   - If the Board of Supervisors does not confirm the recommended appointee, the selection process will be repeated.

4. Petition for Representation: Groups, organizations or community agencies from the Economically Disadvantaged Sector who feel they are inadequately represented may submit a letter to the Community Action Board Chairperson detailing their specific reasons, along with their suggested issue resolution for consideration.

The Community Action Board Chairperson will bring the issue to the Community Action Board Executive Committee for review and action, including formal written response to the petitioner.

Section E Residence

In accordance with U.S. Code, Title 42, § 9910 and California Government Code § 12751, at least one-third of the members of the Community Action Board shall be:

1. Representatives of low-income individuals and families in the neighborhood served;
2. Residing in the neighborhood served; and
3. Able to participate actively in the development, planning, implementation, and evaluation of programs funded under this chapter. (U.S. Code, Title 42 Chapter 106, §9910 (b) (1) (A) (B) (C).)

Section F Vacancies

1. The following events shall constitute a vacancy:
   - Designating Official removes a Public Sector representative;
   - Member resigns or dies;
   - Designating Official leaves office;
   - Term of membership or alternate membership expires;
   - Member's excessive absences, as defined in Article 6, Section F, creates an automatic vacancy; or
   - Member is notified of his/her removal for cause.
2. Resignations - A member may resign or withdraw by filing with the Community Action Board a written resignation. If a member resigns, the vacancy shall be filled in accordance with the selection procedure for the respective sector as identified in Article 2, Section D, "Selection of Members".
3. Removal - Members of the Community Action Board from the Public Sector shall serve during their terms at the will and pleasure of their appointing authorities.

   Members of the Economically Disadvantaged Sector and organizations representing the Private Sector may be removed by a majority vote of the Community Action Board for the following reasons:

   - Falsely representing the Community Action Board's actions or recommendations;
   - Impersonating an officer of the Community Action Board;
   - Conflict of interest;
   - Violation of Community Action Board policies;
   - Violation of applicable County policies; and/or
   - Failure of a member organization to select a representative.
   - A member representing the Economically Disadvantaged Sector no longer resides in the geographic area he/she was selected to represent

   The member shall be notified in writing that an item has been placed on the agenda for the next Community Action Board meeting to remove the member for cause. A majority vote is

required for removal. The member shall be notified of the Community Action Board's decision in writing within five days following the meeting.

Section G Conflict of Interest

No employee of the Community Action Agency or the funding source may serve on the Community Action Board.

No other Federal/State employee may serve on the Community Action Board in a capacity which will require him/her to act as an agent of or attorney for the Community Action Board in its dealings with the funding source or with any other Federal/State agency.

No member of the Community Action Board shall make, participate in making, or in any way attempt to use his/her position as a member of a committee to influence a decision in which he/she knows or has reason to know that he/she has a financial interest, except in those cases where the member is appointed to represent an entity or group having a financial interest in a matter coming within the Community Action Board's area of responsibility.

No person shall be appointed to or serve on a committee which participates in the making of County contracts in which such person is financially interested within the terms of Government Code section 1090 et seq. This prohibition is not applicable to persons with "remote interests" as defined in subdivision (b) of Government Code section 1091, provided that the person discloses the interest in accordance with subdivision (a) of Government Code section 1091 and the person does not influence or attempt to influence other committee members to act favorably in respect to the contract in which the person has a remote interest.

Section H Compensation

Members of the Community Action Board shall serve without compensation. Community Action Board Members may be reimbursed for expenses incurred in performing their duties pursuant to the County Administrative Code, Article XXVI-A, Sections 471, 472 and 484.

ARTICLE 3
DUTIES

Section A Designating Officials

The powers of the Designating Officials shall consist of the following:

1. Approval of program plans, priorities, proposals, and budgets.
2. Enforcement of compliance with all conditions of funding source grants.

These powers shall not be subject to concurrence, veto, or modification by any other local officials or authority, unless pursuant to a delegation of powers by the Designating Officials.

Section B Delegation

The powers outlined in Article 3, Section A, may be delegated to the Community Action Board and no other entity, unless written approval has been granted by the funding source to do so.

Section C Community Action Partnership Board

The Community Action Board shall have the following powers, duties, and responsibilities.

1. Establish processes for planning and public hearings regarding the use of community action funds. Make recommendations on CAP's allocation of program resources. The final results shall be submitted in the form of recommendations to the Board of Supervisors for action;

2. Assist and ensure membership composition, standards, and election procedures;
3. Select its own officers, executive committee, and other committees;
4. Review policies relating to programs of the Community Action Partnership, and recommend to the Board of Supervisors the adoption of such policies as it may deem necessary and desirable;
5. Participate in the development and implementation of all programs and projects designed to serve the economically disadvantaged or low-income areas to assure maximum feasible participation of residents of the areas and members of groups served;
6. Provide a forum for the economically disadvantaged and concerned residents to allow a mechanism for securing broad community involvement in the programs;
7. Determine, subject to funding source policies, rules and procedures for the Community Action Board;
8. Exercise all powers which the Designating Officials may delegate.

The Community Action Board has the right to: (1) request reasonable advance notice of and an opportunity to make recommendations to the Designating Officials concerning the exercise of all powers which those Officials have not delegated to the Community Action Board; and (2) perform such other duties and responsibilities as may be assigned by the Board of Supervisors.

Section D Staff Assistance

The Community Action Partnership shall be responsible for providing necessary staff support to the Community Action Board.

ARTICLE 4
OFFICERS

Section A Officers

The election of officers is a responsibility of the Community Action Board membership and is governed in accordance with the establishing authority. If not addressed in the establishing authority, the following Sections B through F are in force.

Section B Election of Officers

The Community Action Board annually elects from its members the following officers: Chairperson, Vice-Chairperson and Secretary.

Section C Vacated Office

If an office is vacated, the Chairperson will temporarily appoint a member of the Community Action Board to fill the vacancy until a new officer is elected. Such election shall be held within 30 days of the vacancy.

Section D Chairperson

The Chairperson provides general supervisory guidance to the Community Action Board and presides over its meetings. The Chairperson assigns coordinating duties to the Vice Chairperson as necessary. The Chairperson is the sole official spokesperson for the Community Action Board unless this responsibility is delegated in writing.

Section E Vice Chairperson

In the absence of the Chairperson, the Vice Chairperson assumes the duties and responsibilities of that office.

Section F Secretary

The Secretary or assigned staff records the minutes of all Community Action Board meetings and handles committee correspondence. The Secretary or assigned staff keeps the roll, certifies the presence of a quorum, maintains a list of all active representatives, and keeps records of actions as they occur at each meeting. It is the responsibility of the County staff assigned to the Community Action Board to assure that posting of meeting notices in a publicly accessible place for 72 hours prior to the committee meeting occurs, to keep a record of such posting, and to reproduce and distribute the Community Action Board notices and minutes of all meetings.

Section G Minutes

The Community Action Board shall require the secretary or assigned staff to keep written minutes, including records of votes on all motions, for all meetings of the Community Action Board and the Executive Committee. The minutes are to be distributed to all Community Action Board members prior to the next meeting and signed by the Secretary after approval by the Community Action Board. A copy of the minutes shall be filed with the Clerk of the Board of Supervisors and shall be available for public inspection upon request.

The Community Action Board may adopt, from time to time, such rules and regulations for the conduct of its meetings and affairs as may be required. Meetings shall be governed by Robert's Rules of Order insofar as such rules are not inconsistent or in conflict with these by-laws.

ARTICLE 5
COMMITTEES

Section A Committee Appointments

The Chairperson shall appoint all standing and special committees as may be deemed necessary by the Community Action Board. The Chairperson will announce committee appointments to the Community Action Board. In the absence of the Chairperson, the officer of the Community Action Board next in authority as per these by-laws shall make committee appointments as stated above.

Section B Executive Committee

The Executive Committee shall be comprised of, at minimum, the Chairperson, Vice- Chairperson, and Secretary.

The Executive Committee shall have the authority to act for the Community Action Board on matters of routine and ordinary business between the meetings of the Community Action Board. All actions shall be subject to ratification by the full Community Action Board at its regular meeting unless otherwise directed by the Community Action Board.

Section C Planning Committee

The Planning Committee shall review and make recommendations to the Community Action Board on programmatic matters including but not limited to needs assessment, grant applications, local plans, Program Progress Reports and Requests for Proposals (RFPs).

Section D Finance Committee

The Finance Committee shall review and make recommendations to the Community Action Board

on all fiscal and budgetary matters.

Section E Nominating Committee

The Nominating Committee is an ad-hoc committee.

The Nominating Committee shall assemble when a vacancy occurs, or is about to occur in the Economically Disadvantaged or Private Sectors. The duties of the Nominating Committee are outlined in Article 2, Section D.

Section F Committee Chairperson

Each committee chairperson shall be responsible for the keeping of records of all actions and reports of the committee, and shall submit these actions and reports to the Community Action Board on a regular basis. A committee chairperson shall not act as spokesperson for the Community Action Board unless authorized to do so in writing as set forth in Article 4, Section D, of these by-laws.

Section G Coordinating Committee

A coordinating committee comprised of the chairpersons of the committees may be formed to assemble information from each committee for presentation to the Community Action Board. The Chairperson or Vice-Chairperson shall act as the chairperson of the coordinating committee.

ARTICLE 6
ORGANIZATION PROCEDURES

Section A Robert's Rules of Order

Robert's Rules of Order govern the operation of the Community Action Board in all cases not covered by these by-laws. The Community Action Board may formulate specific procedural rules of order to govern the conduct of its meetings.

Section B Voting Rules

Any group voting is on the basis of one vote per person and no proxy, or absentee voting is permitted.

Section C Meetings and Committees

All meetings of the Community Action Board and its committees are open to the public to the extent required by the Ralph M. Brown Act. Meetings are to be held in accessible, public places. Notice of all Community Action Board meetings shall be posted in a publicly accessible place for a period of 72 hours prior to the meeting (special meetings require 24 hour notice). In addition, such notice will be mailed on request.

Section D Meeting Frequency

The Community Action Board shall provide for regular meetings. It shall hold a minimum of six regular meetings per year. The Community Action Board shall provide the date, time, place, and adequate legal notice of regular meetings. The meeting notice must meet ADA Compliance regulations. A copy of such notice shall be filed with the Clerk of the Board of Supervisors.

If at any time, a regular meeting falls on a holiday, the meeting date shall be determined by the Community Action Board. Written notice of the meeting must be posted 72 hours prior to the meeting date.

A special meeting may be called at any time by the Chairperson or upon written request of at least

eight members. Written notice must be posted and delivered to each member personally or by mail at least 24 hours before the time of the meeting as specified in the notice. Only the subject matter specified in the notice may be addressed.

Section E Quorum

At least fifty (50) percent of the non-vacant seats of the Community Action Board shall constitute a quorum for transaction of business. At least fifty (50) percent of the non-vacant seats of any subcommittee of the Community Action Board shall constitute a quorum for transaction of the subcommittee's business.

Section F Attendance

Members of the Community Action Board shall attend scheduled meetings. If a representative of the Economically Disadvantaged Sector or the Private Sector is unable to attend a meeting of the Community Action Board, the representative shall notify his/her alternate who shall attend in the representative's place.

A representative of the Public Sector, who is absent from three scheduled Community Action Board meetings in any fiscal year, shall be deemed to have excessive absences. A letter shall be sent, signed by the Chairperson of the Community Action Board, informing the nominating Supervisor and the representative that a circumstance of excessive absences exists, and requesting from the appointing County Supervisor a replacement representative for his/her district in accordance with County ordinances and Board Policies pertaining to the selection of citizen advisory board members.

A representative of the Economically Disadvantaged Sector or the Private Sector, who is absent from three scheduled Community Action Board meetings in any fiscal year, thereby shall have created a vacancy on the Community Action Board. The vacancy is automatic by reason of the representative's excessive absences.

A member who is absent for good cause may request that the Chairperson of the Community Action Board excuse an absence. If the Chairperson consents to excuse an absence for good cause, the absence shall not be counted in determining excessive absences. The Chairperson shall inform the Community Action Board during regularly scheduled meetings of absences that have been excused for good cause. Reasons such as illness or being out of town shall generally be considered good cause for absence.

ARTICLE 7
AMENDMENTS

Section A Procedure

The by-laws may be amended by a simple majority of the members of the Community Action Board present at a regular or special meeting in which a quorum is constituted. An amendment to the by-laws shall be proposed at a regular meeting. A copy of the proposed amendment shall be mailed to each member at least seven days prior to the meeting date.

Amendments approved by the Community Action Board will become effective upon San Diego County, Board of Supervisors' approval.

Approved by Community Action Board on April 9, 2020 (date), Secretary

Approved by the Board of Supervisors on August 4, 2020 (date)

_____

Signature

State Mandated Ethics Training

Government Code section 53234 and follow (AB1234) requires local agency officials who are eligible to receive compensation or reimbursement for expenses to take two hours of ethics training every two years.

Local agency officials who commence service before January 1, 2006 are required to take the training within one year. Thereafter, the officials must take two hours of ethics training every two years.

"Local agency official" includes, (a) the local government's elected officials and (b) members of any legislative body of the local agency, who are eligible to receive compensation and/or reimbursement for expenses for service on the particular local legislative body. "Legislative body" means any decision making or advisory committee, commission, board, or other body of the local agency (i.e., the County) that is subject to the provisions of the Brown Act, Government Code, § 53234 (a), (b) and (c).

The law allows local agency officials to satisfy the ethics training requirement through one of the following three options:

1. In person training courses;
2. On-line training ; or
3. Self- study training (reading materials and taking a test)

On-line and self-study options, as well as other information about the required ethics training, are available at the Institute for Local Government's website, http://www.ca-ilg.org/ab1234compliance. There is a fee associated with some of these training options. After the training is completed, a certification should be provided. The certification should be kept for the individual's records and a copy must be sent to the Clerk of the Board of Supervisors.

REQUIRED BIENNIAL ETHICS TRAINING

Each Advisory Board member is **required to complete 2 hrs. of biennial Ethics Training**. Send **Certificate of completion** to Erik.Aguilar@sdcounty.ca.gov.

The online course can be accessed **here. Click on Local Officials Ethics Training Course.**

For Local Officials

Cities, counties and special districts in California are required by law (AB 1234, Chapter 700, Stats. of 2005) to provide ethics training to their local officials.

Several training opti[illegible]are available to your agency, including training conducted by commercial organizations, nonpr[illegible], or an agency's own legal counsel. In addition, an online training program has been established that all[illegible]cal officials to satisfy the requirements of AB 1234 on a cost-free basis. The course can be accessed via the link below. When the training is finished, *you must print* the Certification of Completion provided at the end.

Local Officials Ethics Training Course

The FPPC will continue to offer and host the AB 1234 training after December 31, 2023. We are currently working to provide further updates as they become available. An update will be posted onto the website soon.

You must complete a minimum of **2 hours** of the training to meet the requirements, the time is noted at the top of the certificate.

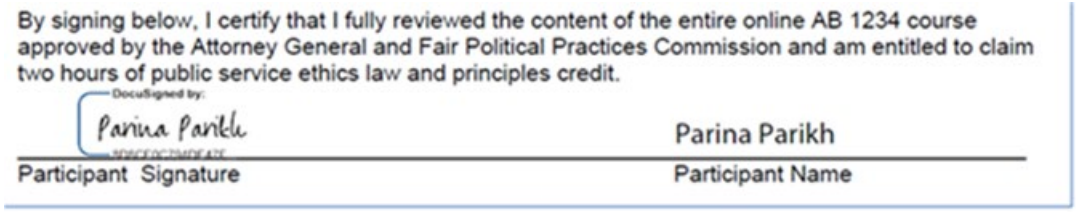
- If your certificate does not reflect 2 hours, you will need to go back in and revisit one of the modules.

Control No: 341744

Public Service Ethics Education
Online Proof of Participation Certificate

Date of Completion: Mar 03, 2022 **Training Time*:** 2 hr. 4 min.

Be sure to **sign** the certificate and list "Community Action Partnership" under Agency Name – **see sample below.**

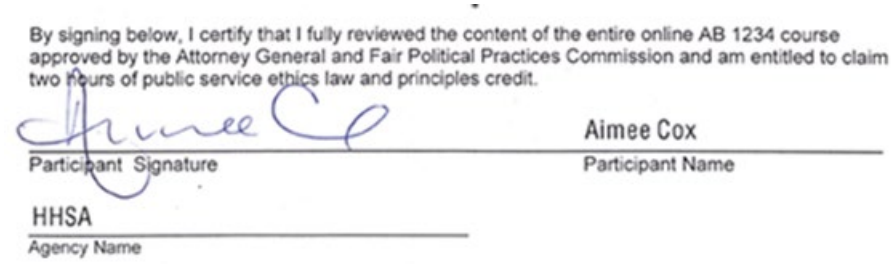


By signing below, I certify that I fully reviewed the content of the entire online AB 1234 course approved by the Attorney General and Fair Political Practices Commission and am entitled to claim two hours of public service ethics law and principles credit.

DocuSigned by:
Parina Parikh
Participant Signature

Parina Parikh
Participant Name

Or



By signing below, I certify that I fully reviewed the content of the entire online AB 1234 course approved by the Attorney General and Fair Political Practices Commission and am entitled to claim two hours of public service ethics law and principles credit.

Participant Signature

Aimee Cox
Participant Name

HHSA
Agency Name

Please contact Deanna Zotalis-Ferreira with any questions.

COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES AGENCY

LIVE WELL SAN DIEGO

CAP Staff Roster

Name	Position	Office Phone	Email
Deanna Zotalis-Ferreira	Chief, Agency Operations	(619) 518-4442	Deanna.Zotalis-Ferreira@sdcounty.ca.gov
Deo Akena	CAP Program Manager	(442) 291-4424	Deo.Akena@sdcounty.ca.gov
Jocelyn Salamat	Administrative Analyst II	(619) 405-8118	Jocelyn.Salamat@sdcounty.ca.gov
Marc Mangabat	Administrative Analyst II	(619) 510-7688	Marclester.Mangabat@sdcounty.ca.gov
Mercedes Pau'u-Davis	Administrative Analyst II	(619) 977-7039	Mercedes.Pauu-Davis@sdcounty.ca.gov
Karla Peña	Administrative Analyst II	(619) 952-4739	Karla.Pena@sdcounty.ca.gov
Carmelo Mendoza Dominguez	Administrative Analyst II	(619) 577-3110	Carmelo.MendozaDominguez@sdcounty.ca.gov
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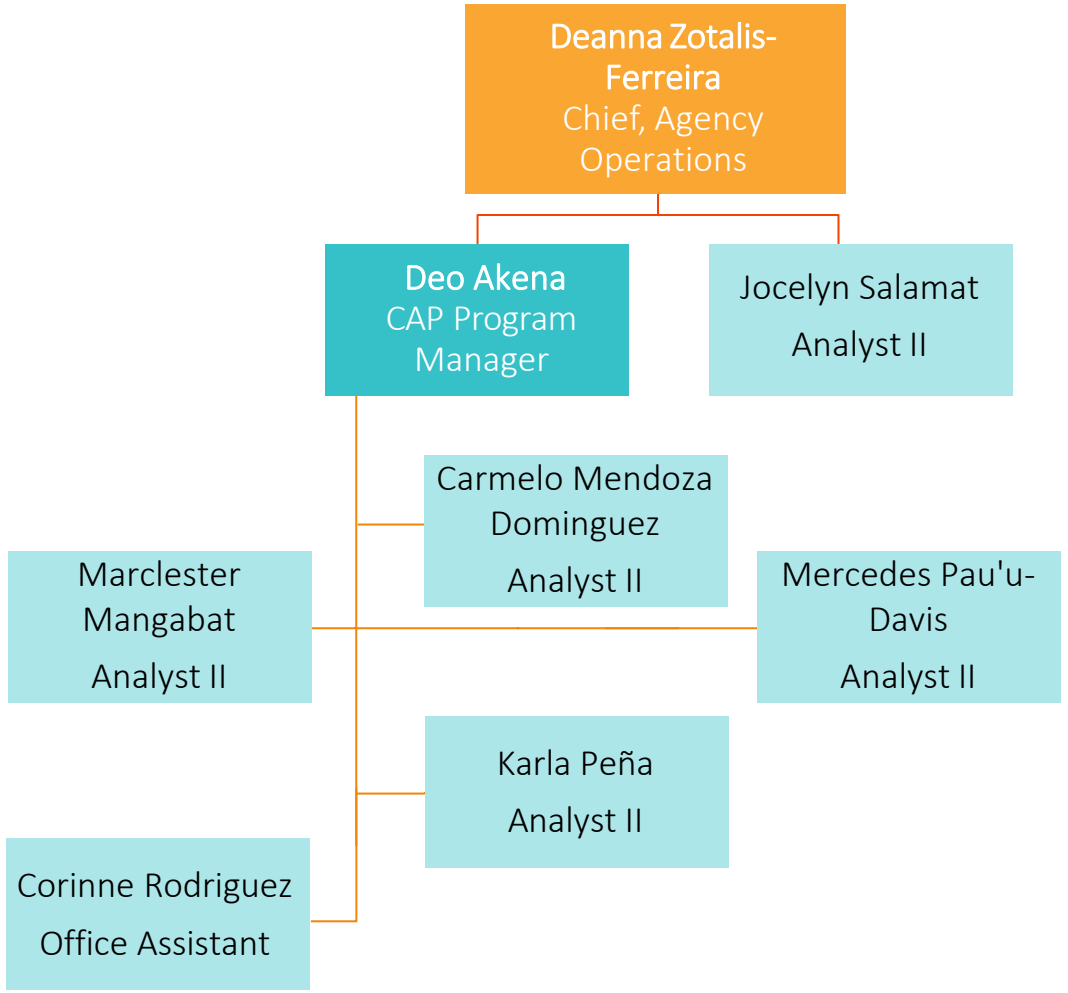
			Updated 01/2025

HHSA, Office of Equitable Communities
Community Action Partnership

COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES AGENCY

LIVE WELL SAN DIEGO



Updated 01/2025

42 USC 9801 note.

SEC. 119. REPEAL OF HEAD START TRANSITION PROJECT ACT.

The Head Start Transition Project Act (42 U.S.C. 9855–9855g) is repealed.

TITLE II—COMMUNITY SERVICES BLOCK GRANT PROGRAM

SEC. 201. REAUTHORIZATION.

The Community Services Block Grant Act (42 U.S.C. 9901 et seq.) is amended to read as follows:

Community Services Block Grant Act.

"Subtitle B—Community Services Block Grant Program

42 USC 9901 note.

"SEC. 671. SHORT TITLE.

"This subtitle may be cited as the 'Community Services Block Grant Act'.

42 USC 9901.

"SEC. 672. PURPOSES AND GOALS.

"The purposes of this subtitle are—

"(1) to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

"(2) to accomplish the goals described in paragraph (1) through—

"(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

"(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

"(C) the greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

"(D) the maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this subtitle to empower such residents and members to respond to the unique problems and needs within their communities; and

"(E) the broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role in the provision of services for—

"(i) private, religious, charitable, and neighborhood-based organizations; and

"(ii) individual citizens, and business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor.

"SEC. 673. DEFINITIONS. 42 USC 9902.

"In this subtitle:

"(1) ELIGIBLE ENTITY; FAMILY LITERACY SERVICES.—

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity—

"(i) that is an eligible entity described in section 673(1) (as in effect on the day before the date of enactment of the Coats Human Services Reauthorization Act of 1998) as of the day before such date of enactment or is designated by the process described in section 676A (including an organization serving migrant or seasonal farmworkers that is so described or designated); and

"(ii) that has a tripartite board or other mechanism described in subsection (a) or (b), as appropriate, of section 676B.

"(B) FAMILY LITERACY SERVICES.—The term 'family literacy services' has the meaning given the term in section 637 of the Head Start Act (42 U.S.C. 9832).

"(2) POVERTY LINE.—The term 'poverty line' means the official poverty line defined by the Office of Management and Budget based on the most recent data available from the Bureau of the Census. The Secretary shall revise annually (or at any shorter interval the Secretary determines to be feasible and desirable) the poverty line, which shall be used as a criterion of eligibility in the community services block grant program established under this subtitle. The required revision shall be accomplished by multiplying the official poverty line by the percentage change in the Consumer Price Index for All Urban Consumers during the annual or other interval immediately preceding the time at which the revision is made. Whenever a State determines that it serves the objectives of the block grant program established under this subtitle, the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph.

"(3) PRIVATE, NONPROFIT ORGANIZATION.—The term 'private, nonprofit organization' includes a religious organization, to which the provisions of section 679 shall apply.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

42 USC 9903.

"SEC. 674. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1999 through 2003 to carry out the provisions of this subtitle (other than sections 681 and 682).

"(b) RESERVATIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, the Secretary shall reserve—

"(1) ½ of 1 percent for carrying out section 675A (relating to payments for territories);

"(2) 1½ percent for activities authorized in sections 678A through 678F, of which—

"(A) not less than ½ of the amount reserved by the Secretary under this paragraph shall be distributed directly to eligible entities, organizations, or associations described in section 678A(c)(2) for the purpose of carrying out activities described in section 678A(c); and

"(B) ½ of the remainder of the amount reserved by the Secretary under this paragraph shall be used by the Secretary to carry out evaluation and to assist States in carrying out corrective action activities and monitoring (to correct programmatic deficiencies of eligible entities), as described in sections 678B(c) and 678A; and

"(3) 9 percent for carrying out section 680 (relating to discretionary activities) and section 678E(b)(2).

42 USC 9904.

"SEC. 675. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

"The Secretary is authorized to establish a community services block grant program and make grants through the program to States to ameliorate the causes of poverty in communities within the States.

42 USC 9905.

"SEC. 675A. DISTRIBUTION TO TERRITORIES.

"(a) APPORTIONMENT.—The Secretary shall apportion the amount reserved under section 674(b)(1) for each fiscal year on the basis of need among Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(b) APPLICATION.—Each jurisdiction to which subsection (a) applies may receive a grant under this section for the amount apportioned under subsection (a) on submitting to the Secretary, and obtaining approval of, an application, containing provisions that describe the programs for which assistance is sought under this section, that is prepared in accordance with, and contains the information described in, section 676.

42 USC 9906.

"SEC. 675B. ALLOTMENTS AND PAYMENTS TO STATES.

"(a) ALLOTMENTS IN GENERAL.—The Secretary shall, from the amount appropriated under section 674(a) for each fiscal year that remains after the Secretary makes the reservations required in section 674(b), allot to each State (subject to section 677) an amount that bears the same ratio to such remaining amount as the amount received by the State for fiscal year 1981 under section 221 of the Economic Opportunity Act of 1964 bore to the total amount received by all States for fiscal year 1981 under such section, except—

"(1) that no State shall receive less than ¼ of 1 percent of the amount appropriated under section 674(a) for such fiscal year; and

"(2) as provided in subsection (b).

"(b) ALLOTMENTS IN YEARS WITH GREATER AVAILABLE FUNDS.—

"(1) MINIMUM ALLOTMENTS.—Subject to paragraphs (2) and (3), if the amount appropriated under section 674(a) for a fiscal year that remains after the Secretary makes the reservations required in section 674(b) exceeds $345,000,000, the Secretary shall allot to each State not less than ½ of 1 percent of the amount appropriated under section 674(a) for such fiscal year.

"(2) MAINTENANCE OF FISCAL YEAR 1990 LEVELS.—Paragraph (1) shall not apply with respect to a fiscal year if the amount allotted under subsection (a) to any State for that year is less than the amount allotted under section 674(a)(1) (as in effect on September 30, 1989) to such State for fiscal year 1990.

"(3) MAXIMUM ALLOTMENTS.—The amount allotted under paragraph (1) to a State for a fiscal year shall be reduced, if necessary, so that the aggregate amount allotted to such State under such paragraph and subsection (a) does not exceed 140 percent of the aggregate amount allotted to such State under the corresponding provisions of this subtitle for the preceding fiscal year.

"(c) PAYMENTS.—The Secretary shall make grants to eligible States for the allotments described in subsections (a) and (b). The Secretary shall make payments for the grants in accordance with section 6503(a) of title 31, United States Code.

"(d) DEFINITION.—In this section, the term 'State' does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"SEC. 675C. USES OF FUNDS. 42 USC 9907.

"(a) GRANTS TO ELIGIBLE ENTITIES AND OTHER ORGANIZATIONS.—

"(1) IN GENERAL.—Not less than 90 percent of the funds made available to a State under section 675A or 675B shall be used by the State to make grants for the purposes described in section 672 to eligible entities.

"(2) OBLIGATIONAL AUTHORITY.—Funds distributed to eligible entities through grants made in accordance with paragraph (1) for a fiscal year shall be available for obligation during that fiscal year and the succeeding fiscal year, subject to paragraph (3).

"(3) RECAPTURE AND REDISTRIBUTION OF UNOBLIGATED FUNDS.—

"(A) AMOUNT.—Beginning on October 1, 2000, a State may recapture and redistribute funds distributed to an eligible entity through a grant made under paragraph (1) that are unobligated at the end of a fiscal year if such unobligated funds exceed 20 percent of the amount so distributed to such eligible entity for such fiscal year.

"(B) REDISTRIBUTION.—In redistributing funds recaptured in accordance with this paragraph, States shall redistribute such funds to an eligible entity, or require the original recipient of the funds to redistribute the funds to a private, nonprofit organization, located within the community served by the original recipient of the funds, for activities consistent with the purposes of this subtitle.

"(b) STATEWIDE ACTIVITIES.—

"(1) USE OF REMAINDER.—If a State uses less than 100 percent of the grant or allotment received under section 675A or 675B to make grants under subsection (a), the State shall use the remainder of the grant or allotment under section 675A or 675B (subject to paragraph (2)) for activities that may include—

"(A) providing training and technical assistance to those entities in need of such training and assistance;

"(B) coordinating State-operated programs and services, and at the option of the State, locally-operated programs and services, targeted to low-income children and families with services provided by eligible entities and other organizations funded under this subtitle, including detailing appropriate employees of State or local agencies to entities funded under this subtitle, to ensure increased access to services provided by such State or local agencies;

"(C) supporting statewide coordination and communication among eligible entities;

"(D) analyzing the distribution of funds made available under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need;

"(E) supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;

"(F) supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization;

"(G) supporting State charity tax credits as described in subsection (c); and

"(H) supporting other activities, consistent with the purposes of this subtitle.

"(2) ADMINISTRATIVE CAP.—No State may spend more than the greater of $55,000, or 5 percent, of the grant received under section 675A or State allotment received under section 675B for administrative expenses, including monitoring activities. Funds to be spent for such expenses shall be taken from the portion of the grant under section 675A or State allotment that remains after the State makes grants to eligible entities under subsection (a). The cost of activities conducted under paragraph (1)(A) shall not be considered to be administrative expenses. The startup cost and cost of administrative activities conducted under subsection (c) shall be considered to be administrative expenses.

"(c) CHARITY TAX CREDIT.—

"(1) IN GENERAL.—Subject to paragraph (2), if there is in effect under State law a charity tax credit, the State may use for any purpose the amount of the allotment that is available for expenditure under subsection (b).

"(2) LIMIT.—The aggregate amount a State may use under paragraph (1) during a fiscal year shall not exceed 100 percent of the revenue loss of the State during the fiscal year that is attributable to the charity tax credit, as determined by the Secretary of the Treasury without regard to any such revenue loss occurring before January 1, 1999.

"(3) DEFINITIONS AND RULES.—In this subsection:

"(A) CHARITY TAX CREDIT.—The term 'charity tax credit' means a nonrefundable credit against State income tax (or, in the case of a State that does not impose an income tax, a comparable benefit) that is allowable for contributions, in cash or in kind, to qualified charities.

"(B) QUALIFIED CHARITY.—

"(i) IN GENERAL.—The term 'qualified charity' means any organization—

"(I) that is—

"(aa) described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

"(bb) an eligible entity; or

"(cc) a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6));

"(II) that is certified by the appropriate State authority as meeting the requirements of clauses (iii) and (iv); and

"(III) if such organization is otherwise required to file a return under section 6033 of such Code, that elects to treat the information required to be furnished by clause (v) as being specified in section 6033(b) of such Code.

"(ii) CERTAIN CONTRIBUTIONS TO COLLECTION ORGANIZATIONS TREATED AS CONTRIBUTIONS TO QUALIFIED CHARITY.—

"(I) IN GENERAL.—A contribution to a collection organization shall be treated as a contribution to a qualified charity if the donor designates in writing that the contribution is for the qualified charity.

"(II) COLLECTION ORGANIZATION.—The term 'collection organization' means an organization described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code—

"(aa) that solicits and collects gifts and grants that, by agreement, are distributed to qualified charities;

"(bb) that distributes to qualified charities at least 90 percent of the gifts and grants the organization receives that are designated for such qualified charities; and

"(cc) that meets the requirements of clause (vi).

"(iii) CHARITY MUST PRIMARILY ASSIST POOR INDIVIDUALS.—

"(I) IN GENERAL.—An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the predominant activity of such organization will be the provision of direct services within the United States to individuals and families whose annual incomes generally do not exceed 185 percent of the poverty line in order to prevent or alleviate poverty among such individuals and families.

"(II) NO RECORDKEEPING IN CERTAIN CASES.—An organization shall not be required to establish or maintain records with respect to the incomes of individuals and families for purposes of subclause (I) if such individuals or families are members of groups that are generally recognized as including substantially only individuals and families described in subclause (I).

"(III) FOOD AID AND HOMELESS SHELTERS.—Except as otherwise provided by the appropriate State authority, for purposes of subclause (I), services to individuals in the form of—

"(aa) donations of food or meals; or

"(bb) temporary shelter to homeless individuals;

shall be treated as provided to individuals described in subclause (I) if the location and provision of such services are such that the service provider may reasonably conclude that the beneficiaries of such services are predominantly individuals described in subclause (I).

"(iv) MINIMUM EXPENSE REQUIREMENT.—

"(I) IN GENERAL.—An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the annual poverty program expenses of such organization will not be less than 75 percent of the annual aggregate expenses of such organization.

"(II) POVERTY PROGRAM EXPENSE.—For purposes of subclause (I)—

"(aa) IN GENERAL.—The term 'poverty program expense' means any expense in providing direct services referred to in clause (iii).

"(bb) EXCEPTIONS.—Such term shall not include any management or general expense, any expense for the purpose of influencing legislation (as defined in section 4911(d) of the Internal Revenue Code of 1986), any expense for the purpose of fundraising, any expense for a legal service provided on behalf of any individual referred to in clause (iii), any expense for providing tuition assistance relating to compulsory school attendance, and any expense that consists of a payment to an affiliate of the organization.

"(v) REPORTING REQUIREMENT.—The information required to be furnished under this clause about an organization is—

"(I) the percentages determined by dividing the following categories of the organization's expenses for the year by the total expenses of the organization for the year: expenses for direct services, management expenses, general expenses, fundraising expenses, and payments to affiliates; and

"(II) the category or categories (including food, shelter, education, substance abuse prevention or

treatment, job training, or other) of services that constitute predominant activities of the organization.

"(vi) ADDITIONAL REQUIREMENTS FOR COLLECTION ORGANIZATIONS.—The requirements of this clause are met if the organization—

"(I) maintains separate accounting for revenues and expenses; and

"(II) makes available to the public information on the administrative and fundraising costs of the organization, and information as to the organizations receiving funds from the organization and the amount of such funds.

"(vii) SPECIAL RULE FOR STATES REQUIRING TAX UNIFORMITY.—In the case of a State—

"(I) that has a constitutional requirement of tax uniformity; and

"(II) that, as of December 31, 1997, imposed a tax on personal income with—

"(aa) a single flat rate applicable to all earned and unearned income (except insofar as any amount is not taxed pursuant to tax forgiveness provisions); and

"(bb) no generally available exemptions or deductions to individuals;

the requirement of paragraph (2) shall be treated as met if the amount of the credit described in paragraph (2) is limited to a uniform percentage (but not greater than 25 percent) of State personal income tax liability (determined without regard to credits).

"(4) LIMITATION ON USE OF FUNDS FOR STARTUP AND ADMINISTRATIVE ACTIVITIES.—Except to the extent provided in subsection (b)(2), no part of the aggregate amount a State uses under paragraph (1) may be used to pay for the cost of the startup and administrative activities conducted under this subsection.

"(5) PROHIBITION ON USE OF FUNDS FOR LEGAL SERVICES OR TUITION ASSISTANCE.—No part of the aggregate amount a State uses under paragraph (1) may be used to provide legal services or to provide tuition assistance related to compulsory education requirements (not including tuition assistance for tutoring, camps, skills development, or other supplemental services or training).

"(6) PROHIBITION ON SUPPLANTING FUNDS.—No part of the aggregate amount a State uses under paragraph (1) may be used to supplant non-Federal funds that would be available, in the absence of Federal funds, to offset a revenue loss of the State attributable to a charity tax credit.

"SEC. 676. APPLICATION AND PLAN. 42 USC 9908.

"(a) DESIGNATION OF LEAD AGENCY.—

"(1) DESIGNATION.—The chief executive officer of a State desiring to receive a grant or allotment under section 675A or 675B shall designate, in an application submitted to the Secretary under subsection (b), an appropriate State agency that complies with the requirements of paragraph (2) to act

as a lead agency for purposes of carrying out State activities under this subtitle.

"(2) DUTIES.—The lead agency shall—

"(A) develop the State plan to be submitted to the Secretary under subsection (b);

"(B) in conjunction with the development of the State plan as required under subsection (b), hold at least one hearing in the State with sufficient time and statewide distribution of notice of such hearing, to provide to the public an opportunity to comment on the proposed use and distribution of funds to be provided through the grant or allotment under section 675A or 675B for the period covered by the State plan; and

"(C) conduct reviews of eligible entities under section 678B.

"(3) LEGISLATIVE HEARING.—In order to be eligible to receive a grant or allotment under section 675A or 675B, the State shall hold at least one legislative hearing every 3 years in conjunction with the development of the State plan.

"(b) STATE APPLICATION AND PLAN.—Beginning with fiscal year 2000, to be eligible to receive a grant or allotment under section 675A or 675B, a State shall prepare and submit to the Secretary an application and State plan covering a period of not less than 1 fiscal year and not more than 2 fiscal years. The plan shall be submitted not later than 30 days prior to the beginning of the first fiscal year covered by the plan, and shall contain such information as the Secretary shall require, including—

"(1) an assurance that funds made available through the grant or allotment will be used—

"(A) to support activities that are designed to assist low-income families and individuals, including families and individuals receiving assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals—

"(i) to remove obstacles and solve problems that block the achievement of self-sufficiency (including self-sufficiency for families and individuals who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act);

"(ii) to secure and retain meaningful employment;

"(iii) to attain an adequate education, with particular attention toward improving literacy skills of the low-income families in the communities involved, which may include carrying out family literacy initiatives;

"(iv) to make better use of available income;

"(v) to obtain and maintain adequate housing and a suitable living environment;

"(vi) to obtain emergency assistance through loans, grants, or other means to meet immediate and urgent family and individual needs; and

"(vii) to achieve greater participation in the affairs of the communities involved, including the development of public and private grassroots partnerships with local

law enforcement agencies, local housing authorities, private foundations, and other public and private partners to—

"(I) document best practices based on successful grassroots intervention in urban areas, to develop methodologies for widespread replication; and

"(II) strengthen and improve relationships with local law enforcement agencies, which may include participation in activities such as neighborhood or community policing efforts;

"(B) to address the needs of youth in low-income communities through youth development programs that support the primary role of the family, give priority to the prevention of youth problems and crime, and promote increased community coordination and collaboration in meeting the needs of youth, and support development and expansion of innovative community-based youth development programs that have demonstrated success in preventing or reducing youth crime, such as—

"(i) programs for the establishment of violence-free zones that would involve youth development and intervention models (such as models involving youth mediation, youth mentoring, life skills training, job creation, and entrepreneurship programs); and

"(ii) after-school child care programs; and

"(C) to make more effective use of, and to coordinate with, other programs related to the purposes of this subtitle (including State welfare reform efforts);

"(2) a description of how the State intends to use discretionary funds made available from the remainder of the grant or allotment described in section 675C(b) in accordance with this subtitle, including a description of how the State will support innovative community and neighborhood-based initiatives related to the purposes of this subtitle;

"(3) information provided by eligible entities in the State, containing—

"(A) a description of the service delivery system, for services provided or coordinated with funds made available through grants made under section 675C(a), targeted to low-income individuals and families in communities within the State;

"(B) a description of how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and followup consultations;

"(C) a description of how funds made available through grants made under section 675C(a) will be coordinated with other public and private resources; and

"(D) a description of how the local entity will use the funds to support innovative community and neighborhood-based initiatives related to the purposes of this subtitle, which may include fatherhood initiatives and other initiatives with the goal of strengthening families and encouraging effective parenting;

"(4) an assurance that eligible entities in the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals;

"(5) an assurance that the State and the eligible entities in the State will coordinate, and establish linkages between, governmental and other social services programs to assure the effective delivery of such services to low-income individuals and to avoid duplication of such services, and a description of how the State and the eligible entities will coordinate the provision of employment and training activities, as defined in section 101 of such Act, in the State and in communities with entities providing activities through statewide and local workforce investment systems under the Workforce Investment Act of 1998;

"(6) an assurance that the State will ensure coordination between antipoverty programs in each community in the State, and ensure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to low-income home energy assistance) are conducted in such community;

"(7) an assurance that the State will permit and cooperate with Federal investigations undertaken in accordance with section 678D;

"(8) an assurance that any eligible entity in the State that received funding in the previous fiscal year through a community services block grant made under this subtitle will not have its funding terminated under this subtitle, or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction, subject to review by the Secretary as provided in section 678C(b);

"(9) an assurance that the State and eligible entities in the State will, to the maximum extent possible, coordinate programs with and form partnerships with other organizations serving low-income residents of the communities and members of the groups served by the State, including religious organizations, charitable groups, and community organizations;

"(10) an assurance that the State will require each eligible entity in the State to establish procedures under which a low-income individual, community organization, or religious organization, or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the board (or other mechanism) of the eligible entity to petition for adequate representation;

"(11) an assurance that the State will secure from each eligible entity in the State, as a condition to receipt of funding by the entity through a community services block grant made under this subtitle for a program, a community action plan (which shall be submitted to the Secretary, at the request of the Secretary, with the State plan) that includes a community-needs assessment for the community served, which may be coordinated with community-needs assessments conducted for other programs;

"(12) an assurance that the State and all eligible entities in the State will, not later than fiscal year 2001, participate

in the Results Oriented Management and Accountability System, another performance measure system for which the Secretary facilitated development pursuant to section 678E(b), or an alternative system for measuring performance and results that meets the requirements of that section, and a description of outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization; and

"(13) information describing how the State will carry out the assurances described in this subsection.

"(c) FUNDING TERMINATION OR REDUCTIONS.—For purposes of making a determination in accordance with subsection (b)(8) with respect to—

"(1) a funding reduction, the term 'cause' includes—

"(A) a statewide redistribution of funds provided through a community services block grant under this subtitle to respond to—

"(i) the results of the most recently available census or other appropriate data;

"(ii) the designation of a new eligible entity; or

"(iii) severe economic dislocation; or

"(B) the failure of an eligible entity to comply with the terms of an agreement or a State plan, or to meet a State requirement, as described in section 678C(a); and

"(2) a termination, the term 'cause' includes the failure of an eligible entity to comply with the terms of an agreement or a State plan, or to meet a State requirement, as described in section 678C(a).

"(d) PROCEDURES AND INFORMATION.—The Secretary may prescribe procedures for the purpose of assessing the effectiveness of eligible entities in carrying out the purposes of this subtitle.

"(e) REVISIONS AND INSPECTION.—

"(1) REVISIONS.—The chief executive officer of each State may revise any plan prepared under this section and shall submit the revised plan to the Secretary.

"(2) PUBLIC INSPECTION.—Each plan or revised plan prepared under this section shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

"(f) TRANSITION.—For fiscal year 2000, to be eligible to receive a grant or allotment under section 675A or 675B, a State shall prepare and submit to the Secretary an application and State plan in accordance with the provisions of this subtitle (as in effect on the day before the date of enactment of the Coats Human Services Reauthorization Act of 1998), rather than the provisions of subsections (a) through (c) relating to applications and plans.

"SEC. 676A. DESIGNATION AND REDESIGNATION OF ELIGIBLE ENTITIES IN UNSERVED AREAS.

42 USC 9909.

"(a) QUALIFIED ORGANIZATION IN OR NEAR AREA.—

"(1) IN GENERAL.—If any geographic area of a State is not, or ceases to be, served by an eligible entity under this subtitle, and if the chief executive officer of the State decides to serve such area, the chief executive officer may solicit applications from, and designate as an eligible entity—

"(A) a private nonprofit organization (which may include an eligible entity) that is geographically located

in the unserved area, that is capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency, and that meets the requirements of this subtitle; and

"(B) a private nonprofit eligible entity that is geographically located in an area contiguous to or within reasonable proximity of the unserved area and that is already providing related services in the unserved area.

"(2) REQUIREMENT.—In order to serve as the eligible entity for the area, an entity described in paragraph (1)(B) shall agree to add additional members to the board of the entity to ensure adequate representation—

"(A) in each of the three required categories described in subparagraphs (A), (B), and (C) of section 676B(a)(2), by members that reside in the community comprised by the unserved area; and

"(B) in the category described in section 676B(a)(2)(B), by members that reside in the neighborhood to be served.

"(b) SPECIAL CONSIDERATION.—In designating an eligible entity under subsection (a), the chief executive officer shall grant the designation to an organization of demonstrated effectiveness in meeting the goals and purposes of this subtitle and may give priority, in granting the designation, to eligible entities that are providing related services in the unserved area, consistent with the needs identified by a community-needs assessment.

"(c) NO QUALIFIED ORGANIZATION IN OR NEAR AREA.—If no private, nonprofit organization is identified or determined to be qualified under subsection (a) to serve the unserved area as an eligible entity the chief executive officer may designate an appropriate political subdivision of the State to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a board or other mechanism as required in section 676B(b).

42 USC 9910.

"SEC. 676B. TRIPARTITE BOARDS.

"(a) PRIVATE NONPROFIT ENTITIES.—

"(1) BOARD.—In order for a private, nonprofit entity to be considered to be an eligible entity for purposes of section 673(1), the entity shall administer the community services block grant program through a tripartite board described in paragraph (2) that fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities.

"(2) SELECTION AND COMPOSITION OF BOARD.—The members of the board referred to in paragraph (1) shall be selected by the entity and the board shall be composed so as to assure that—

"(A) ⅓ of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than ⅓ of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such ⅓ requirement;

"(B)(i) not fewer than ⅓ of the members are persons chosen in accordance with democratic selection procedures

adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and

"(ii) each representative of low-income individuals and families selected to represent a specific neighborhood within a community under clause (i) resides in the neighborhood represented by the member; and

"(C) the remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

"(b) PUBLIC ORGANIZATIONS.—In order for a public organization to be considered to be an eligible entity for purposes of section 673(1), the entity shall administer the community services block grant program through—

"(1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than ⅓ of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members—

"(A) are representative of low-income individuals and families in the neighborhood served;

"(B) reside in the neighborhood served; and

"(C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this subtitle; or

"(2) another mechanism specified by the State to assure decisionmaking and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this subtitle.

"SEC. 677. PAYMENTS TO INDIAN TRIBES.

42 USC 9911.

"(a) RESERVATION.—If, with respect to any State, the Secretary—

"(1) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subtitle be made directly to such tribe or organization; and

"(2) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this subtitle,

the Secretary shall reserve from amounts that would otherwise be allotted to such State under section 675B for the fiscal year the amount determined under subsection (b).

"(b) DETERMINATION OF RESERVED AMOUNT.—The Secretary shall reserve for the purpose of subsection (a) from amounts that would otherwise be allotted to such State, not less than 100 percent of an amount that bears the same ratio to the State allotment for the fiscal year involved as the population of all eligible Indians for whom a determination has been made under subsection (a) bears to the population of all individuals eligible for assistance through a community services block grant made under this subtitle in such State.

"(c) AWARDS.—The sums reserved by the Secretary on the basis of a determination made under subsection (a) shall be made available by grant to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(d) PLAN.—In order for an Indian tribe or tribal organization to be eligible for a grant award for a fiscal year under this section, the tribe or organization shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe by regulation.

"(e) DEFINITIONS.—In this section:

"(1) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms 'Indian tribe' and 'tribal organization' mean a tribe, band, or other organized group recognized in the State in which the tribe, band, or group resides, or considered by the Secretary of the Interior, to be an Indian tribe or an Indian organization for any purpose.

"(2) INDIAN.—The term 'Indian' means a member of an Indian tribe or of a tribal organization.

42 USC 9912.

"SEC. 678. OFFICE OF COMMUNITY SERVICES.

Establishment.

"(a) OFFICE.—The Secretary shall carry out the functions of this subtitle through an Office of Community Services, which shall be established in the Department of Health and Human Services. The Office shall be headed by a Director.

"(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary shall carry out functions of this subtitle through grants, contracts, or cooperative agreements.

42 USC 9913.

"SEC. 678A. TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES.

"(a) ACTIVITIES.—

"(1) IN GENERAL.—The Secretary shall use amounts reserved in section 674(b)(2)—

"(A) for training, technical assistance, planning, evaluation, and performance measurement, to assist States in carrying out corrective action activities and monitoring (to correct programmatic deficiencies of eligible entities), and for reporting and data collection activities, related to programs carried out under this subtitle; and

"(B) to distribute amounts in accordance with subsection (c).

"(2) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The activities described in paragraph (1)(A) may be carried out by the Secretary through grants, contracts, or cooperative agreements with appropriate entities.

"(b) TERMS AND TECHNICAL ASSISTANCE PROCESS.—The process for determining the training and technical assistance to be carried out under this section shall—

"(1) ensure that the needs of eligible entities and programs relating to improving program quality (including quality of financial management practices) are addressed to the maximum extent feasible; and

"(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the national and State networks of eligible entities.

"(c) DISTRIBUTION REQUIREMENT.—

"(1) IN GENERAL.—The amounts reserved under section 674(b)(2)(A) for activities to be carried out under this subsection shall be distributed directly to eligible entities, organizations, or associations described in paragraph (2) for the purpose of improving program quality (including quality of financial management practices), management information and reporting

systems, and measurement of program results, and for the purpose of ensuring responsiveness to identified local needs.

"(2) ELIGIBLE ENTITIES, ORGANIZATIONS, OR ASSOCIATIONS.—Eligible entities, organizations, or associations described in this paragraph shall be eligible entities, or statewide or local organizations or associations, with demonstrated expertise in providing training to individuals and organizations on methods of effectively addressing the needs of low-income families and communities.

"SEC. 678B. MONITORING OF ELIGIBLE ENTITIES. 42 USC 9914.

"(a) IN GENERAL.—In order to determine whether eligible entities meet the performance goals, administrative standards, financial management requirements, and other requirements of a State, the State shall conduct the following reviews of eligible entities:

"(1) A full onsite review of each such entity at least once during each 3-year period.

"(2) An onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives funds through the community services block grant program.

"(3) Followup reviews including prompt return visits to eligible entities, and their programs, that fail to meet the goals, standards, and requirements established by the State.

"(4) Other reviews as appropriate, including reviews of entities with programs that have had other Federal, State, or local grants (other than assistance provided under this subtitle) terminated for cause.

"(b) REQUESTS.—The State may request training and technical assistance from the Secretary as needed to comply with the requirements of this section.

"(c) EVALUATIONS BY THE SECRETARY.—The Secretary shall conduct in several States in each fiscal year evaluations (including investigations) of the use of funds received by the States under this subtitle in order to evaluate compliance with the provisions of this subtitle, and especially with respect to compliance with section 676(b). The Secretary shall submit, to each State evaluated, a report containing the results of such evaluations, and recommendations of improvements designed to enhance the benefit and impact of the activities carried out with such funds for people in need. On receiving the report, the State shall submit to the Secretary a plan of action in response to the recommendations contained in the report. The results of the evaluations shall be submitted annually to the Chairperson of the Committee on Education and the Workforce of the House of Representatives and the Chairperson of the Committee on Labor and Human Resources of the Senate as part of the report submitted by the Secretary in accordance with section 678E(b)(2). Reports.

"SEC. 678C. CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING. 42 USC 9915.

"(a) DETERMINATION.—If the State determines, on the basis of a final decision in a review pursuant to section 678B, that an eligible entity fails to comply with the terms of an agreement, or the State plan, to provide services under this subtitle or to meet appropriate standards, goals, and other requirements established by the State (including performance objectives), the State shall—

"(1) inform the entity of the deficiency to be corrected;

"(2) require the entity to correct the deficiency;

"(3)(A) offer training and technical assistance, if appropriate, to help correct the deficiency, and prepare and submit to the Secretary a report describing the training and technical assistance offered; or

"(B) if the State determines that such training and technical assistance are not appropriate, prepare and submit to the Secretary a report stating the reasons for the determination;

"(4)(A) at the discretion of the State (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), allow the entity to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the State; and

"(B) not later than 30 days after receiving from an eligible entity a proposed quality improvement plan pursuant to subparagraph (A), either approve such proposed plan or specify the reasons why the proposed plan cannot be approved; and

"(5) after providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce the funding under this subtitle of the eligible entity unless the entity corrects the deficiency.

"(b) REVIEW.—A determination to terminate the designation or reduce the funding of an eligible entity is reviewable by the Secretary. The Secretary shall, upon request, review such a determination. The review shall be completed not later than 90 days after the Secretary receives from the State all necessary documentation relating to the determination to terminate the designation or reduce the funding. If the review is not completed within 90 days, the determination of the State shall become final at the end of the 90th day.

Deadline.

"(c) DIRECT ASSISTANCE.—Whenever a State violates the assurances contained in section 676(b)(8) and terminates or reduces the funding of an eligible entity prior to the completion of the State hearing described in that section and the Secretary's review as required in subsection (b), the Secretary is authorized to provide financial assistance under this subtitle to the eligible entity affected until the violation is corrected. In such a case, the grant or allotment for the State under section 675A or 675B for the earliest appropriate fiscal year shall be reduced by an amount equal to the funds provided under this subsection to such eligible entity.

42 USC 9916.

"SEC. 678D. FISCAL CONTROLS, AUDITS, AND WITHHOLDING.

"(a) FISCAL CONTROLS, PROCEDURES, AUDITS, AND INSPECTIONS.—

"(1) IN GENERAL.—A State that receives funds under this subtitle shall—

"(A) establish fiscal control and fund accounting procedures necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this subtitle, including procedures for monitoring the funds provided under this subtitle;

"(B) ensure that cost and accounting standards of the Office of Management and Budget apply to a recipient of the funds under this subtitle;

"(C) subject to paragraph (2), prepare, at least every year, an audit of the expenditures of the State of amounts received under this subtitle and amounts transferred to carry out the purposes of this subtitle; and

"(D) make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request for the items.

"(2) AUDITS.—

"(A) IN GENERAL.—Subject to subparagraph (B), each audit required by subsection (a)(1)(C) shall be conducted by an entity independent of any agency administering activities or services carried out under this subtitle and shall be conducted in accordance with generally accepted accounting principles.

"(B) SINGLE AUDIT REQUIREMENTS.—Audits shall be conducted under this paragraph in the manner and to the extent provided in chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act Amendments of 1996').

"(C) SUBMISSION OF COPIES.—Within 30 days after the completion of each such audit in a State, the chief executive officer of the State shall submit a copy of such audit to any eligible entity that was the subject of the audit at no charge, to the legislature of the State, and to the Secretary.

"(3) REPAYMENTS.—The State shall repay to the United States amounts found not to have been expended in accordance with this subtitle or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subtitle.

"(b) WITHHOLDING.—

"(1) IN GENERAL.—The Secretary shall, after providing adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State that does not utilize the grant or allotment under section 675A or 675B in accordance with the provisions of this subtitle, including the assurances such State provided under section 676.

"(2) RESPONSE TO COMPLAINTS.—The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this subtitle, including the assurances provided by the State under section 676. For purposes of this paragraph, a complaint of a failure to meet any one of the assurances provided under section 676 that constitutes disregarding that assurance shall be considered to be a complaint of a serious nature.

"(3) INVESTIGATIONS.—Whenever the Secretary determines that there is a pattern of complaints of failures described in paragraph (2) from any State in any fiscal year, the Secretary shall conduct an investigation of the use of funds received under this subtitle by such State in order to ensure compliance with the provisions of this subtitle.

42 USC 9917.

"SEC. 678E. ACCOUNTABILITY AND REPORTING REQUIREMENTS.

"(a) STATE ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) PERFORMANCE MEASUREMENT.—

"(A) IN GENERAL.—By October 1, 2001, each State that receives funds under this subtitle shall participate, and shall ensure that all eligible entities in the State participate, in a performance measurement system, which may be a performance measurement system for which the Secretary facilitated development pursuant to subsection (b), or an alternative system that the Secretary is satisfied meets the requirements of subsection (b).

"(B) LOCAL AGENCIES.—The State may elect to have local agencies that are subcontractors of the eligible entities under this subtitle participate in the performance measurement system. If the State makes that election, references in this section to eligible entities shall be considered to include the local agencies.

"(2) ANNUAL REPORT.—Each State shall annually prepare and submit to the Secretary a report on the measured performance of the State and the eligible entities in the State. Prior to the participation of the State in the performance measurement system, the State shall include in the report any information collected by the State relating to such performance. Each State shall also include in the report an accounting of the expenditure of funds received by the State through the community services block grant program, including an accounting of funds spent on administrative costs by the State and the eligible entities, and funds spent by eligible entities on the direct delivery of local services, and shall include information on the number of and characteristics of clients served under this subtitle in the State, based on data collected from the eligible entities. The State shall also include in the report a summary describing the training and technical assistance offered by the State under section 678C(a)(3) during the year covered by the report.

"(b) SECRETARY'S ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

"(1) PERFORMANCE MEASUREMENT.—The Secretary, in collaboration with the States and with eligible entities throughout the Nation, shall facilitate the development of one or more model performance measurement systems, which may be used by the States and by eligible entities to measure their performance in carrying out the requirements of this subtitle and in achieving the goals of their community action plans. The Secretary shall provide technical assistance, including support for the enhancement of electronic data systems, to States and to eligible entities to enhance their capability to collect and report data for such a system and to aid in their participation in such a system.

"(2) REPORTING REQUIREMENTS.—At the end of each fiscal year beginning after September 30, 1999, the Secretary shall, directly or by grant or contract, prepare a report containing—

"(A) a summary of the planned use of funds by each State, and the eligible entities in the State, under the community services block grant program, as contained in each State plan submitted pursuant to section 676;

"(B) a description of how funds were actually spent by the State and eligible entities in the State, including a breakdown of funds spent on administrative costs and on the direct delivery of local services by eligible entities;

"(C) information on the number of entities eligible for funds under this subtitle, the number of low-income persons served under this subtitle, and such demographic data on the low-income populations served by eligible entities as is determined by the Secretary to be feasible;

"(D) a comparison of the planned uses of funds for each State and the actual uses of the funds;

"(E) a summary of each State's performance results, and the results for the eligible entities, as collected and submitted by the States in accordance with subsection (a)(2); and

"(F) any additional information that the Secretary considers to be appropriate to carry out this subtitle, if the Secretary informs the States of the need for such additional information and allows a reasonable period of time for the States to collect and provide the information.

"(3) SUBMISSION.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the report described in paragraph (2), and any comments the Secretary may have with respect to such report. The report shall include definitions of direct and administrative costs used by the Department of Health and Human Services for programs funded under this subtitle.

"(4) COSTS.—Of the funds reserved under section 674(b)(3), not more than $350,000 shall be available to carry out the reporting requirements contained in paragraph (2).

"SEC. 678F. LIMITATIONS ON USE OF FUNDS.

42 USC 9918.

"(a) CONSTRUCTION OF FACILITIES.—

"(1) LIMITATIONS.—Except as provided in paragraph (2), grants made under this subtitle (other than amounts reserved under section 674(b)(3)) may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subtitle, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

"(2) WAIVER.—The Secretary may waive the limitation contained in paragraph (1) upon a State request for such a waiver, if the Secretary finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subtitle.

"(b) POLITICAL ACTIVITIES.—

"(1) TREATMENT AS A STATE OR LOCAL AGENCY.—For purposes of chapter 15 of title 5, United States Code, any entity that assumes responsibility for planning, developing, and coordinating activities under this subtitle and receives assistance under this subtitle shall be deemed to be a State or local agency. For purposes of paragraphs (1) and (2) of section

1502(a) of such title, any entity receiving assistance under this subtitle shall be deemed to be a State or local agency.

"(2) PROHIBITIONS.—Programs assisted under this subtitle shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel, in a manner supporting or resulting in the identification of such programs with—

"(A) any partisan or nonpartisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office;

"(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

"(C) any voter registration activity.

"(3) RULES AND REGULATIONS.—The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this subsection, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

"(c) NONDISCRIMINATION.—

"(1) IN GENERAL.—No person shall, on the basis of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subtitle. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified individual with a disability as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) shall also apply to any such program or activity.

Notification.

"(2) ACTION OF SECRETARY.—Whenever the Secretary determines that a State that has received a payment under this subtitle has failed to comply with paragraph (1) or an applicable regulation, the Secretary shall notify the chief executive officer of the State and shall request that the officer secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), as may be applicable; or

"(C) take such other action as may be provided by law.

"(3) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to paragraph (2), or whenever the Attorney General has reason to believe that

the State is engaged in a pattern or practice of discrimination in violation of the provisions of this subsection, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"SEC. 678G. DRUG AND CHILD SUPPORT SERVICES AND REFERRALS. 42 USC 9919.

"(a) DRUG TESTING AND REHABILITATION.—

"(1) IN GENERAL.—Nothing in this subtitle shall be construed to prohibit a State from testing participants in programs, activities, or services carried out or provided under this subtitle for controlled substances. A State that conducts such testing shall inform the participants who test positive for any of such substances about the availability of treatment or rehabilitation services and refer such participants for appropriate treatment or rehabilitation services.

"(2) ADMINISTRATIVE EXPENSES.—Any funds provided under this subtitle expended for such testing shall be considered to be expended for administrative expenses and shall be subject to the limitation specified in section 675C(b)(2).

"(3) DEFINITION.—In this subsection, the term 'controlled substance' has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"(b) CHILD SUPPORT SERVICES AND REFERRALS.—During each fiscal year for which an eligible entity receives a grant under section 675C, such entity shall—

"(1) inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subtitle about the availability of child support services; and

"(2) refer eligible parents to the child support offices of State and local governments.

"SEC. 679. OPERATIONAL RULE. 42 USC 9920.

"(a) RELIGIOUS ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—For any program carried out by the Federal Government, or by a State or local government under this subtitle, the government shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a religious character.

"(b) RELIGIOUS CHARACTER AND INDEPENDENCE.—

"(1) IN GENERAL.—A religious organization that provides assistance under a program described in subsection (a) shall retain its religious character and control over the definition, development, practice, and expression of its religious beliefs.

"(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a religious organization—

"(A) to alter its form of internal governance, except (for purposes of administration of the community services block grant program) as provided in section 676B; or

"(B) to remove religious art, icons, scripture, or other symbols;

in order to be eligible to provide assistance under a program described in subsection (a).

"(3) EMPLOYMENT PRACTICES.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a).

"(c) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to a religious organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

"(d) FISCAL ACCOUNTABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

"(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

"(e) TREATMENT OF ELIGIBLE ENTITIES AND OTHER INTERMEDIATE ORGANIZATIONS.—If an eligible entity or other organization (referred to in this subsection as an 'intermediate organization'), acting under a contract, or grant or other agreement, with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

42 USC 9921.

"SEC. 680. DISCRETIONARY AUTHORITY OF THE SECRETARY.

"(a) GRANTS, CONTRACTS, ARRANGEMENTS, LOANS, AND GUARANTEES.—

"(1) IN GENERAL.—The Secretary shall, from funds reserved under section 674(b)(3), make grants, loans, or guarantees to States and public agencies and private, nonprofit organizations, or enter into contracts or jointly financed cooperative arrangements with States and public agencies and private, nonprofit organizations (and for-profit organizations, to the extent specified in paragraph (2)(E)) for each of the objectives described in paragraphs (2) through (4).

"(2) COMMUNITY ECONOMIC DEVELOPMENT.—

"(A) ECONOMIC DEVELOPMENT ACTIVITIES.—The Secretary shall make grants described in paragraph (1) on a competitive basis to private, nonprofit organizations that are community development corporations to provide technical and financial assistance for economic development activities designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

"(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) after consultation with other relevant Federal officials.

"(C) GOVERNING BOARDS.—For a community development corporation to receive funds to carry out this paragraph, the corporation shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing, or managing low-income housing or community development projects.

"(D) GEOGRAPHIC DISTRIBUTION.—In making grants to carry out this paragraph, the Secretary shall take into consideration the geographic distribution of funding among States and the relative proportion of funding among rural and urban areas.

"(E) RESERVATION.—Of the amounts made available to carry out this paragraph, the Secretary may reserve not more than 1 percent for each fiscal year to make grants to private, nonprofit organizations or to enter into contracts with private, nonprofit or for-profit organizations to provide technical assistance to aid community development corporations in developing or implementing activities funded to carry out this paragraph and to evaluate activities funded to carry out this paragraph.

"(3) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—The Secretary shall provide the assistance described in paragraph (1) for rural community development activities, which shall include providing—

"(A) grants to private, nonprofit corporations to enable the corporations to provide assistance concerning home repair to rural low-income families and concerning planning and developing low-income rural rental housing units; and

"(B) grants to multistate, regional, private, nonprofit organizations to enable the organizations to provide training and technical assistance to small, rural communities concerning meeting their community facility needs.

"(4) NEIGHBORHOOD INNOVATION PROJECTS.—The Secretary shall provide the assistance described in paragraph (1) for neighborhood innovation projects, which shall include providing grants to neighborhood-based private, nonprofit organizations to test or assist in the development of new approaches or methods that will aid in overcoming special problems identified by communities or neighborhoods or otherwise assist in furthering the purposes of this subtitle, and which may include providing assistance for projects that are designed to serve low-income individuals and families who are not being effectively served by other programs.

"(b) EVALUATION.—The Secretary shall require all activities receiving assistance under this section to be evaluated for their effectiveness. Funding for such evaluations shall be provided as a stated percentage of the assistance or through a separate grant awarded by the Secretary specifically for the purpose of evaluation of a particular activity or group of activities.

"(c) ANNUAL REPORT.—The Secretary shall compile an annual report containing a summary of the evaluations required in subsection (b) and a listing of all activities assisted under this section. The Secretary shall annually submit the report to the Chairperson of the Committee on Education and the Workforce of the House of Representatives and the Chairperson of the Committee on Labor and Human Resources of the Senate. Records.

42 USC 9922.

"SEC. 681. COMMUNITY FOOD AND NUTRITION PROGRAMS.

"(a) GRANTS.—The Secretary may, through grants to public and private, nonprofit agencies, provide for community-based, local, statewide, and national programs—

"(1) to coordinate private and public food assistance resources, wherever the grant recipient involved determines such coordination to be inadequate, to better serve low-income populations;

"(2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate such programs in underserved or unserved areas; and

"(3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income individuals.

"(b) ALLOTMENTS AND DISTRIBUTION OF FUNDS.—

"(1) NOT TO EXCEED $6,000,000 IN APPROPRIATIONS.—Of the amount appropriated for a fiscal year to carry out this section (but not to exceed $6,000,000), the Secretary shall distribute funds for grants under subsection (a) as follows:

"(A) ALLOTMENTS.—From a portion equal to 60 percent of such amount (but not to exceed $3,600,000), the Secretary shall allot for grants to eligible agencies for statewide programs in each State the amount that bears the same ratio to such portion as the low-income and unemployed population of such State bears to the low-income and unemployed population of all the States.

"(B) COMPETITIVE GRANTS.—From a portion equal to 40 percent of such amount (but not to exceed $2,400,000), the Secretary shall make grants on a competitive basis to eligible agencies for local and statewide programs.

"(2) GREATER AVAILABLE APPROPRIATIONS.—Any amounts appropriated for a fiscal year to carry out this section in excess of $6,000,000 shall be allotted as follows:

"(A) ALLOTMENTS.—The Secretary shall use 40 percent of such excess to allot for grants under subsection (a) to eligible agencies for statewide programs in each State an amount that bears the same ratio to 40 percent of such excess as the low-income and unemployed population of such State bears to the low-income and unemployed population of all the States.

"(B) COMPETITIVE GRANTS FOR LOCAL AND STATEWIDE PROGRAMS.—The Secretary shall use 40 percent of such excess to make grants under subsection (a) on a competitive basis to eligible agencies for local and statewide programs.

"(C) COMPETITIVE GRANTS FOR NATIONWIDE PROGRAMS.—The Secretary shall use the remaining 20 percent of such excess to make grants under subsection (a) on a competitive basis to eligible agencies for nationwide programs, including programs benefiting Indians, as defined in section 677, and migrant or seasonal farmworkers.

"(3) ELIGIBILITY FOR ALLOTMENTS FOR STATEWIDE PROGRAMS.—To be eligible to receive an allotment under paragraph (1)(A) or (2)(A), an eligible agency shall demonstrate that the proposed program is statewide in scope and represents a comprehensive and coordinated effort to alleviate hunger within the State.

"(4) MINIMUM ALLOTMENTS FOR STATEWIDE PROGRAMS.—

"(A) IN GENERAL.—From the amounts allotted under paragraphs (1)(A) and (2)(A), the minimum total allotment for each State for each fiscal year shall be—

"(i) $15,000 if the total amount appropriated to carry out this section is not less than $7,000,000 but less than $10,000,000;

"(ii) $20,000 if the total amount appropriated to carry out this section is not less than $10,000,000 but less than $15,000,000; or

"(iii) $30,000 if the total amount appropriated to carry out this section is not less than $15,000,000.

"(B) DEFINITION.—In this paragraph, the term 'State' does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"(5) MAXIMUM GRANTS.—From funds made available under paragraphs (1)(B) and (2)(B) for any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $50,000. From funds made available under paragraph (2)(C) for any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $300,000.

"(c) REPORT.—For each fiscal year, the Secretary shall prepare and submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the grants made under this section. Such report shall include—

Records.

"(1) a list of grant recipients;

"(2) information on the amount of funding awarded to each grant recipient; and

"(3) a summary of the activities performed by the grant recipients with funding awarded under this section and a description of the manner in which such activities meet the objectives described in subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2003.

"SEC. 682. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDEINSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

42 USC 9923.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make a grant to an eligible service provider to administer national or regional programs to provide instructional activities for low-income youth. In making such a grant, the Secretary shall give priority to eligible service providers that have a demonstrated ability to operate such a program.

"(b) PROGRAM REQUIREMENTS.—Any instructional activity carried out by an eligible service provider receiving a grant under this section shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) and shall include—

"(1) access to the facilities and resources of such an institution;

"(2) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(3) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(4) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)); and

"(5) enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and information on study practices, education for the prevention of drug and alcohol abuse, and information on health and nutrition, career opportunities, and family and job responsibilities.

"(c) ADVISORY COMMITTEE; PARTNERSHIPS.—The eligible service provider shall, in each community in which a program is funded under this section—

"(1) ensure that—

"(A) a community-based advisory committee is established, with representatives from local youth, family, and social service organizations, schools, entities providing park and recreation services, and other community-based organizations serving high-risk youth; or

"(B) an existing community-based advisory board, commission, or committee with similar membership is utilized to serve as the committee described in subparagraph (A); and

"(2) enter into formal partnerships with youth-serving organizations or other appropriate social service entities in order to link program participants with year-round services in their home communities that support and continue the objectives of this subtitle.

"(d) ELIGIBLE PROVIDERS.—A service provider that is a national private, nonprofit organization, a coalition of such organizations, or a private, nonprofit organization applying jointly with a business concern shall be eligible to apply for a grant under this section if—

"(1) the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

"(2) the applicant agrees to contribute an amount (in cash or in kind, fairly evaluated) of not less than 25 percent of the amount requested, for the program funded through the grant;

"(3) the applicant agrees to use no funds from a grant authorized under this section for administrative expenses; and

"(4) the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary for use of funds made available through the grant.

"(e) APPLICATION PROCESS.—To be eligible to receive a grant under this section, a service provider shall submit to the Secretary, for approval, an application at such time, in such manner, and containing such information as the Secretary may require.

"(f) PROMULGATION OF REGULATIONS OR PROGRAM GUIDELINES.—The Secretary shall promulgate regulations or program guidelines to ensure funds made available through a grant made

under this section are used in accordance with the objectives of this subtitle.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 1999 through 2003 for grants to carry out this section.

"SEC. 683. REFERENCES. 42 USC 9924.

"Any reference in any provision of law to the poverty line set forth in section 624 or 625 of the Economic Opportunity Act of 1964 shall be construed to be a reference to the poverty line defined in section 673. Except as otherwise provided, any reference in any provision of law to any community action agency designated under title II of the Economic Opportunity Act of 1964 shall be construed to be a reference to an entity eligible to receive funds under the community services block grant program.".

SEC. 202. CONFORMING AMENDMENTS.

(a) OLDER AMERICANS ACT OF 1965.—Section 306(a)(6)(E)(ii) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(E)(ii)) is amended by striking "section 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3))" and inserting "section 676B of the Community Services Block Grant Act".

(b) COMMUNITY ECONOMIC DEVELOPMENT ACT OF 1981.—

(1) SOURCE OF FUNDS.—Section 614 of the Community Economic Development Act of 1981 (42 U.S.C. 9803) is repealed.

(2) ADVISORY COMMUNITY INVESTMENT BOARD.—Section 615(a)(2) of the Community Economic Development Act of 1981 (42 U.S.C. 9804(a)(2)) is amended by striking "through the Office" and all that follows and inserting "through an appropriate office.".

(c) HUMAN SERVICES REAUTHORIZATION ACT OF 1986.—Section 407 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9812a) is amended—

(1) in subsection (a)—

(A) by inserting after "funds available" the following: "(before the date of enactment of the Coats Human Services Reauthorization Act of 1998)"; and

(B) by inserting after "9910(a))" the following: "(as in effect before such date)"; and

(2) in subsection (b)(2)—

(A) by inserting after "funds available" the following: "(before the date of enactment of the Coats Human Services Reauthorization Act of 1998)"; and

(B) by inserting after "9910(a))" the following: "(as in effect before such date)".

(d) ANTI-DRUG ABUSE ACT OF 1988.—Section 3521(c)(2) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11841(c)(2)) is amended by striking ", such as activities authorized by section 681(a)(2)(F) of the Community Services Block Grant Act (42 U.S.C. section 9910(a)(2)(F)),".

Low-Income Home Energy Assistance Amendments of 1998.
42 USC 8621 note.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE

SEC. 301. SHORT TITLE.

This title may be cited as the "Low-Income Home Energy Assistance Amendments of 1998".

SEC. 302. AUTHORIZATION.

(a) IN GENERAL.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by inserting ", such sums as may be necessary for each of fiscal years 2000 and 2001, and $2,000,000,000 for each of fiscal years 2002 through 2004" after "1995 through 1999".

(b) PROGRAM YEAR.—Section 2602(c) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(c)) is amended to read as follows:

"(c) Amounts appropriated under this section for any fiscal year for programs and activities under this title shall be made available for obligation in the succeeding fiscal year.".

(c) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES.—Section 2602(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(d)) is amended—

(1) by striking "(d)" and inserting "(d)(1)";

(2) by striking "are authorized" and inserting "is authorized";

(3) by striking "$50,000,000" and all that follows and inserting the following: "$30,000,000 for each of fiscal years 1999 through 2004, except as provided in paragraph (2)."; and

(4) by adding at the end the following:

"(2) For any of fiscal years 1999 through 2004 for which the amount appropriated under subsection (b) is not less than $1,400,000,000, there is authorized to be appropriated $50,000,000 to carry out section 2607A.".

(d) TECHNICAL AMENDMENTS.—Section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(e)) is amended—

(1) by striking "are authorized" and inserting "is authorized"; and

(2) by striking "subsection (g)" and inserting "subsection (e) of such section".

SEC. 303. DEFINITIONS.

Section 2603(4) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622(4)) is amended—

(1) by striking "the term" and inserting "The term"; and

(2) by striking the semicolon and inserting a period.

SEC. 304. NATURAL DISASTERS AND OTHER EMERGENCIES.

(a) DEFINITIONS.—Section 2603 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622) is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (8) through (11), respectively;

(2) by inserting before paragraph (8) (as redesignated in paragraph (1)) the following:

"(7) The term 'natural disaster' means a weather event (relating to cold or hot weather), flood, earthquake, tornado,

hurricane, or ice storm, or an event meeting such other criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.";

(3) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(4) by inserting before paragraph (2) (as redesignated in paragraph (3)) the following:

"(1) The term 'emergency' means—

"(A) a natural disaster;

"(B) a significant home energy supply shortage or disruption;

"(C) a significant increase in the cost of home energy, as determined by the Secretary;

"(D) a significant increase in home energy disconnections reported by a utility, a State regulatory agency, or another agency with necessary data;

"(E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the national program to provide supplemental security income carried out under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or the State temporary assistance for needy families program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), as determined by the head of the appropriate Federal agency;

"(F) a significant increase in unemployment, layoffs, or the number of households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

"(G) an event meeting such criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.".

(b) CONSIDERATIONS.—Section 2604(g) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(g)) is amended by striking the last two sentences and inserting the following: "In determining whether to make such an allotment to a State, the Secretary shall take into account the extent to which the State was affected by the natural disaster or other emergency involved, the availability to the State of other resources under the program carried out under this title or any other program, and such other factors as the Secretary may find to be relevant. Not later than 30 days after making the determination, but prior to releasing an allotted amount to a State, the Secretary shall notify Congress of the allotments made pursuant to this subsection.". Notification.

SEC. 305. STATE ALLOTMENTS.

Section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623) is amended—

(1) in subsection (b)(1), by striking "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands." and inserting "and the Commonwealth of the Northern Mariana Islands.";

(2) in subsection (c)(3)(B)(ii), by striking "application" and inserting "applications";

(3) by striking subsection (f);

(4) in the first sentence of subsection (g), by striking "(a) through (f)" and inserting "(a) through (d)"; and

(5) by redesignating subsection (g) as subsection (e).

SEC. 306. ADMINISTRATION.

Section 2605 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624) is amended—

(1) in subsection (b)—

(A) in paragraph (9)(A), by striking "and not transferred pursuant to section 2604(f) for use under another block grant";

(B) in paragraph (14), by striking "; and" and inserting a semicolon;

(C) in the matter following paragraph (14), by striking "The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection."; and

(D) in the matter following paragraph (16), by inserting before "The Secretary shall issue" the following: "The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.";

(2) in subsection (c)(1)—

(A) in subparagraph (B), by striking "States" and inserting "State"; and

(B) in subparagraph (G)(i), by striking "has" and inserting "had"; and

(3) in paragraphs (1) and (2)(A) of subsection (k) by inserting ", particularly those low-income households with the lowest incomes that pay a high proportion of household income for home energy" before the period.

SEC. 307. PAYMENTS TO STATES.

Section 2607(b)(2)(B) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(b)(2)(B)) is amended—

(1) in the first sentence, by striking "and not transferred pursuant to section 2604(f)"; and

(2) in the second sentence, by striking "but not transferred by the State".

SEC. 308. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION.

42 USC 8626b note.

(a) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the Residential Energy Assistance Challenge program described in section 2607B of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b).

Deadline. 42 USC 8626b note.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to Congress a report containing—

(1) the findings resulting from the evaluation described in subsection (a); and

(2) the State evaluations described in paragraphs (1) and (2) of subsection (b) of such section 2607B.

(c) INCENTIVE GRANTS.—Section 2607B(b)(1) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b(b)(1)) is amended by striking "For each of the fiscal years 1996 through 1999" and inserting "For each fiscal year".

(d) TECHNICAL AMENDMENTS.—Section 2607B of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b) is amended—

(1) in subsection (e)(2)—

(A) by redesignating subparagraphs (F) through (N) as subparagraphs (E) through (M), respectively; and

(B) in clause (i) of subparagraph (I) (as redesignated in subparagraph (A)), by striking "on" and inserting "of"; and

(2) by redesignating subsection (g) as subsection (f).

SEC. 309. TECHNICAL ASSISTANCE, TRAINING, AND COMPLIANCE REVIEWS.

(a) IN GENERAL.—Section 2609A(a) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8628a(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "$250,000" and inserting "$300,000";

(2) by striking "Secretary—" and all that follows through "(1) to make" and inserting the following: "Secretary—

"(1) to—

"(A) make";

(3) by striking "organizations; or" and all that follows through "(2) to enter" and inserting the following: "organizations; or

"(B) enter";

(4) by striking the following:

"to provide" and inserting the following:

"to provide";

(5) by striking "title." and inserting the following: "title; or

"(2) to conduct onsite compliance reviews of programs supported under this title."; and

(6) in paragraph (1)(B) (as redesignated in paragraphs (2) and (3))—

(A) by inserting "or interagency agreements" after "cooperative arrangements"; and

(B) by inserting "(including Federal agencies)" after "public agencies".

(b) CONFORMING AMENDMENT.—The section heading of section 2609A of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8628a) is amended to read as follows:

"TECHNICAL ASSISTANCE, TRAINING, AND COMPLIANCE REVIEWS".

TITLE IV—ASSETS FOR INDEPENDENCE

Assets for Independence Act.
42 USC 604 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Assets for Independence Act".

SEC. 402. FINDINGS.

Congress makes the following findings:

(1) Economic well-being does not come solely from income, spending, and consumption, but also requires savings, investment, and accumulation of assets because assets can improve economic independence and stability, connect individuals with a viable and hopeful future, stimulate development of human and other capital, and enhance the welfare of offspring.

(2) Fully ½ of all Americans have either no, negligible, or negative assets available for investment, just as the price of entry to the economic mainstream, the cost of a house,

an adequate education, and starting a business, is increasing. Further, the household savings rate of the United States lags far behind other industrial nations, presenting a barrier to economic growth.

(3) In the current tight fiscal environment, the United States should invest existing resources in high-yield initiatives. There is reason to believe that the financial returns, including increased income, tax revenue, and decreased welfare cash assistance, resulting from individual development accounts will far exceed the cost of investment in those accounts.

(4) Traditional public assistance programs concentrating on income and consumption have rarely been successful in promoting and supporting the transition to increased economic self-sufficiency. Income-based domestic policy should be complemented with asset-based policy because, while income-based policies ensure that consumption needs (including food, child care, rent, clothing, and health care) are met, asset-based policies provide the means to achieve greater independence and economic well-being.

SEC. 403. PURPOSES.

The purposes of this title are to provide for the establishment of demonstration projects designed to determine—

(1) the social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income;

(2) the extent to which an asset-based policy that promotes saving for postsecondary education, homeownership, and microenterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

(3) the extent to which an asset-based policy stabilizes and improves families and the community in which the families live.

SEC. 404. DEFINITIONS.

In this title:

(1) APPLICABLE PERIOD.—The term "applicable period" means, with respect to amounts to be paid from a grant made for a project year, the calendar year immediately preceding the calendar year in which the grant is made.

(2) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means an individual who is selected to participate in a demonstration project by a qualified entity under section 409.

(3) EMERGENCY WITHDRAWAL.—The term "emergency withdrawal" means a withdrawal by an eligible individual that—

(A) is a withdrawal of only those funds, or a portion of those funds, deposited by the individual in the individual development account of the individual;

(B) is permitted by a qualified entity on a case-by-case basis; and

(C) is made for—

(i) expenses for medical care or necessary to obtain medical care, for the individual or a spouse or dependent of the individual described in paragraph (8)(D);

(ii) payments necessary to prevent the eviction of the individual from the residence of the individual,

or foreclosure on the mortgage for the principal residence of the individual, as defined in paragraph (8)(B); or

(iii) payments necessary to enable the individual to meet necessary living expenses following loss of employment.

(4) HOUSEHOLD.—The term "household" means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(5) INDIVIDUAL DEVELOPMENT ACCOUNT.—

(A) IN GENERAL.—The term "individual development account" means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust contains the following requirements:

(i) No contribution will be accepted unless the contribution is in cash or by check.

(ii) The trustee is a federally insured financial institution, or a State insured financial institution if no federally insured financial institution is available.

(iii) The assets of the trust will be invested in accordance with the direction of the eligible individual after consultation with the qualified entity providing deposits for the individual under section 410.

(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(v) Except as provided in clause (vi), any amount in the trust that is attributable to a deposit provided under section 410 may be paid or distributed out of the trust only for the purpose of paying the qualified expenses of the eligible individual, or enabling the eligible individual to make an emergency withdrawal.

(vi) Any balance in the trust on the day after the date on which the individual for whose benefit the trust is established dies shall be distributed within 30 days of that date as directed by that individual to another individual development account established for the benefit of an eligible individual.

(B) CUSTODIAL ACCOUNTS.—For purposes of subparagraph (A), a custodial account shall be treated as a trust if the assets of the custodial account are held by a bank (as defined in section 408(n) of the Internal Revenue Code of 1986) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which such person will administer the custodial account will be consistent with the requirements of this title, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described in subparagraph (A). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of that custodial account shall be treated as the trustee of the account.

(6) PROJECT YEAR.—The term "project year" means, with respect to a demonstration project, any of the 5 consecutive

12-month periods beginning on the date the project is originally authorized to be conducted.

(7) QUALIFIED ENTITY.—

(A) IN GENERAL.—The term "qualified entity" means—

(i) one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

(ii) a State or local government agency, or a tribal government, submitting an application under section 405 jointly with an organization described in clause (i).

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing an organization described in subparagraph (A)(i) from collaborating with a financial institution or for-profit community development corporation to carry out the purposes of this title.

(8) QUALIFIED EXPENSES.—The term "qualified expenses" means one or more of the following, as provided by a qualified entity:

(A) POSTSECONDARY EDUCATIONAL EXPENSES.—Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution. In this subparagraph:

(i) POSTSECONDARY EDUCATIONAL EXPENSES.—The term "postsecondary educational expenses" means the following:

(I) TUITION AND FEES.—Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

(II) FEES, BOOKS, SUPPLIES, AND EQUIPMENT.—Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

(ii) ELIGIBLE EDUCATIONAL INSTITUTION.—The term "eligible educational institution" means the following:

(I) INSTITUTION OF HIGHER EDUCATION.—An institution described in section 101 or 102 of the Higher Education Act of 1965.

(II) POSTSECONDARY VOCATIONAL EDUCATION SCHOOL.—An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of enactment of this title.

(B) FIRST-HOME PURCHASE.—Qualified acquisition costs with respect to a principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. In this subparagraph:

(i) PRINCIPAL RESIDENCE.—The term "principal residence" means a main residence, the qualified acquisition costs of which do not exceed 100 percent

of the average area purchase price applicable to such residence.

(ii) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

(iii) QUALIFIED FIRST-TIME HOMEBUYER.—

(I) IN GENERAL.—The term "qualified first-time homebuyer" means an individual participating in the project involved (and, if married, the individual's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subparagraph applies.

(II) DATE OF ACQUISITION.—The term "date of acquisition" means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

(C) BUSINESS CAPITALIZATION.—Amounts paid from an individual development account directly to a business capitalization account that is established in a federally insured financial institution (or in a State insured financial institution if no federally insured financial institution is available) and is restricted to use solely for qualified business capitalization expenses. In this subparagraph:

(i) QUALIFIED BUSINESS CAPITALIZATION EXPENSES.—The term "qualified business capitalization expenses" means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

(ii) QUALIFIED EXPENDITURES.—The term "qualified expenditures" means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

(iii) QUALIFIED BUSINESS.—The term "qualified business" means any business that does not contravene any law or public policy (as determined by the Secretary).

(iv) QUALIFIED PLAN.—The term "qualified plan" means a business plan, or a plan to use a business asset purchased, which—

(I) is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

(II) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(III) may require the eligible individual to obtain the assistance of an experienced entrepreneurial adviser.

(D) TRANSFERS TO IDAS OF FAMILY MEMBERS.—Amounts paid from an individual development account directly into

another such account established for the benefit of an eligible individual who is—

(i) the individual's spouse; or

(ii) any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

(9) QUALIFIED SAVINGS OF THE INDIVIDUAL FOR THE PERIOD.—The term "qualified savings of the individual for the period" means the aggregate of the amounts contributed by an individual to the individual development account of the individual during the period.

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services, acting through the Director of Community Services.

(11) TRIBAL GOVERNMENT.—The term "tribal government" means a tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) or a Native Hawaiian organization, as defined in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

SEC. 405. APPLICATIONS.

Deadline. Public information.

(a) ANNOUNCEMENT OF DEMONSTRATION PROJECTS.—Not later than 3 months after the date of enactment of this title, the Secretary shall publicly announce the availability of funding under this title for demonstration projects and shall ensure that applications to conduct the demonstration projects are widely available to qualified entities.

Deadline.

(b) SUBMISSION.—Not later than 6 months after the date of enactment of this title, a qualified entity may submit to the Secretary an application to conduct a demonstration project under this title.

(c) CRITERIA.—In considering whether to approve an application to conduct a demonstration project under this title, the Secretary shall assess the following:

(1) SUFFICIENCY OF PROJECT.—The degree to which the project described in the application appears likely to aid project participants in achieving economic self-sufficiency through activities requiring one or more qualified expenses.

(2) ADMINISTRATIVE ABILITY.—The experience and ability of the applicant to responsibly administer the project.

(3) ABILITY TO ASSIST PARTICIPANTS.—The experience and ability of the applicant in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through the development of assets.

(4) COMMITMENT OF NON-FEDERAL FUNDS.—The aggregate amount of direct funds from non-Federal public sector and from private sources that are formally committed to the project as matching contributions.

(5) ADEQUACY OF PLAN FOR PROVIDING INFORMATION FOR EVALUATION.—The adequacy of the plan for providing information relevant to an evaluation of the project.

(6) OTHER FACTORS.—Such other factors relevant to the purposes of this title as the Secretary may specify.

(d) PREFERENCES.—In considering an application to conduct a demonstration project under this title, the Secretary shall give preference to an application that—

(1) demonstrates the willingness and ability to select individuals described in section 408 who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardian;

(2) provides a commitment of non-Federal funds with a proportionately greater amount of such funds committed from private sector sources; and

(3) targets such individuals residing within one or more relatively well-defined neighborhoods or communities (including rural communities) that experience high rates of poverty or unemployment.

(e) APPROVAL.—Not later than 9 months after the date of enactment of this title, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration projects under this title as the Secretary considers to be appropriate, taking into account the assessments required by subsections (c) and (d). The Secretary shall ensure, to the maximum extent practicable, that the applications that are approved involve a range of communities (both rural and urban) and diverse populations. Deadline.

(f) CONTRACTS WITH NONPROFIT ENTITIES.—The Secretary may contract with an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code to carry out any responsibility of the Secretary under this section or section 412 if—

(1) such entity demonstrates the ability to carry out such responsibility; and

(2) the Secretary can demonstrate that such responsibility would not be carried out by the Secretary at a lower cost.

(g) GRANDFATHERING OF EXISTING STATEWIDE PROGRAMS.—Any statewide individual asset-building program that is carried out in a manner consistent with the purposes of this title, that is established under State law as of the date of enactment of this Act, and that as of such date is operating with an annual State appropriation of not less than $1,000,000 in non-Federal funds, shall be deemed to meet the eligibility requirements of this subtitle, and the entity carrying out the program shall be deemed to be a qualified entity. The Secretary shall consider funding the statewide program as a demonstration project described in this subtitle. In considering the statewide program for funding, the Secretary shall review an application submitted by the entity carrying out such statewide program under this section, notwithstanding the preference requirements listed in subsection (d). Any program requirements under sections 407 through 411 that are inconsistent with State statutory requirements in effect on the date of enactment of this Act, governing such statewide program, shall not apply to the program.

SEC. 406. DEMONSTRATION AUTHORITY; ANNUAL GRANTS.

(a) DEMONSTRATION AUTHORITY.—If the Secretary approves an application to conduct a demonstration project under this title, the Secretary shall, not later than 10 months after the date of enactment of this title, authorize the applicant to conduct the project for 5 project years in accordance with the approved application and the requirements of this title. Deadline.

(b) GRANT AUTHORITY.—For each project year of a demonstration project conducted under this title, the Secretary may make

a grant to the qualified entity authorized to conduct the project. In making such a grant, the Secretary shall make the grant on the first day of the project year in an amount not to exceed the lesser of—

(1) the aggregate amount of funds committed as matching contributions from non-Federal public or private sector sources; or

(2) $1,000,000.

SEC. 407. RESERVE FUND.

(a) ESTABLISHMENT.—A qualified entity under this title, other than a State or local government agency or a tribal government, shall establish a Reserve Fund that shall be maintained in accordance with this section.

(b) AMOUNTS IN RESERVE FUND.—

(1) IN GENERAL.—As soon after receipt as is practicable, a qualified entity shall deposit in the Reserve Fund established under subsection (a)—

(A) all funds provided to the qualified entity from any public or private source in connection with the demonstration project; and

(B) the proceeds from any investment made under subsection (c)(2).

(2) UNIFORM ACCOUNTING REGULATIONS.—The Secretary shall prescribe regulations with respect to accounting for amounts in the Reserve Fund established under subsection (a).

(c) USE OF AMOUNTS IN THE RESERVE FUND.—

(1) IN GENERAL.—A qualified entity shall use the amounts in the Reserve Fund established under subsection (a) to—

(A) assist participants in the demonstration project in obtaining the skills (including economic literacy, budgeting, credit, and counseling skills) and information necessary to achieve economic self-sufficiency through activities requiring qualified expenses;

(B) provide deposits in accordance with section 410 for individuals selected by the qualified entity to participate in the demonstration project;

(C) administer the demonstration project; and

(D) provide the research organization evaluating the demonstration project under section 414 with such information with respect to the demonstration project as may be required for the evaluation.

(2) AUTHORITY TO INVEST FUNDS.—

(A) GUIDELINES.—The Secretary shall establish guidelines for investing amounts in the Reserve Fund established under subsection (a) in a manner that provides an appropriate balance between return, liquidity, and risk.

(B) INVESTMENT.—A qualified entity shall invest the amounts in its Reserve Fund that are not immediately needed to carry out the provisions of paragraph (1), in accordance with the guidelines established under subparagraph (A).

(3) LIMITATION ON USES.—Not more than 9.5 percent of the amounts provided to a qualified entity under section 406(b) shall be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1), of which

not less than 2 percent of the amounts shall be used by the qualified entity for the purposes described in paragraph (1)(D). If two or more qualified entities are jointly administering a project, no qualified entity shall use more than its proportional share for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1).

(d) UNUSED FEDERAL GRANT FUNDS TRANSFERRED TO THE SECRETARY WHEN PROJECT TERMINATES.—Notwithstanding subsection (c), upon the termination of any demonstration project authorized under this section, the qualified entity conducting the project shall transfer to the Secretary an amount equal to—

(1) the amounts in its Reserve Fund at the time of the termination; multiplied by

(2) a percentage equal to—

(A) the aggregate amount of grants made to the qualified entity under section 406(b); divided by

(B) the aggregate amount of all funds provided to the qualified entity from all sources to conduct the project.

SEC. 408. ELIGIBILITY FOR PARTICIPATION.

(a) IN GENERAL.—Any individual who is a member of a household that is eligible for assistance under the State temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or that meets each of the following requirements shall be eligible to participate in a demonstration project conducted under this title:

(1) INCOME TEST.—The adjusted gross income of the household does not exceed the earned income amount described in section 32 of the Internal Revenue Code of 1986 (taking into account the size of the household).

(2) NET WORTH TEST.—

(A) IN GENERAL.—The net worth of the household, as of the end of the calendar year preceding the determination of eligibility, does not exceed $10,000.

(B) DETERMINATION OF NET WORTH.—For purposes of subparagraph (A), the net worth of a household is the amount equal to—

(i) the aggregate market value of all assets that are owned in whole or in part by any member of the household; minus

(ii) the obligations or debts of any member of the household.

(C) EXCLUSIONS.—For purposes of determining the net worth of a household, a household's assets shall not be considered to include the primary dwelling unit and one motor vehicle owned by a member of the household.

(b) INDIVIDUALS UNABLE TO COMPLETE THE PROJECT.—The Secretary shall establish such regulations as are necessary to ensure compliance with this title if an individual participating in the demonstration project moves from the community in which the project is conducted or is otherwise unable to continue participating in that project, including regulations prohibiting future eligibility to participate in any other demonstration project conducted under this title. Regulations.

SEC. 409. SELECTION OF INDIVIDUALS TO PARTICIPATE.

From among the individuals eligible to participate in a demonstration project conducted under this title, each qualified entity shall select the individuals—

(1) that the qualified entity determines to be best suited to participate; and

(2) to whom the qualified entity will provide deposits in accordance with section 410.

SEC. 410. DEPOSITS BY QUALIFIED ENTITIES.

(a) IN GENERAL.—Not less than once every 3 months during each project year, each qualified entity under this title shall deposit in the individual development account of each individual participating in the project, or into a parallel account maintained by the qualified entity—

(1) from the non-Federal funds described in section 405(c)(4), a matching contribution of not less than $0.50 and not more than $4 for every $1 of earned income (as defined in section 911(d)(2) of the Internal Revenue Code of 1986) deposited in the account by a project participant during that period;

(2) from the grant made under section 406(b), an amount equal to the matching contribution made under paragraph (1); and

(3) any interest that has accrued on amounts deposited under paragraph (1) or (2) on behalf of that individual into the individual development account of the individual or into a parallel account maintained by the qualified entity.

(b) LIMITATION ON DEPOSITS FOR AN INDIVIDUAL.—Not more than $2,000 from a grant made under section 406(b) shall be provided to any one individual over the course of the demonstration project.

(c) LIMITATION ON DEPOSITS FOR A HOUSEHOLD.—Not more than $4,000 from a grant made under section 406(b) shall be provided to any one household over the course of the demonstration project.

(d) WITHDRAWAL OF FUNDS.—The Secretary shall establish such guidelines as may be necessary to ensure that funds held in an individual development account are not withdrawn, except for one or more qualified expenses, or for an emergency withdrawal. Such guidelines shall include a requirement that a responsible official of the qualified entity conducting a project approve a withdrawal from such an account in writing. The guidelines shall provide that no individual may withdraw funds from an individual development account earlier than 6 months after the date on which the individual first deposits funds in the account.

(e) REIMBURSEMENT.—An individual shall reimburse an individual development account for any funds withdrawn from the account for an emergency withdrawal, not later than 12 months after the date of the withdrawal. If the individual fails to make the reimbursement, the qualified entity administering the account shall transfer the funds deposited into the account or a parallel account under this section to the Reserve Fund of the qualified entity, and use the funds to benefit other individuals participating in the demonstration project involved.

SEC. 411. LOCAL CONTROL OVER DEMONSTRATION PROJECTS.

A qualified entity under this title, other than a State or local government agency or a tribal government, shall, subject to the provisions of section 413, have sole authority over the administration of the project. The Secretary may prescribe only such regulations or guidelines with respect to demonstration projects conducted under this title as are necessary to ensure compliance with the approved applications and the requirements of this title.

SEC. 412. ANNUAL PROGRESS REPORTS.

(a) IN GENERAL.—Each qualified entity under this title shall prepare an annual report on the progress of the demonstration project. Each report shall include both program and participant information and shall specify for the period covered by the report the following information:

(1) The number and characteristics of individuals making a deposit into an individual development account.

(2) The amounts in the Reserve Fund established with respect to the project.

(3) The amounts deposited in the individual development accounts.

(4) The amounts withdrawn from the individual development accounts and the purposes for which such amounts were withdrawn.

(5) The balances remaining in the individual development accounts.

(6) The savings account characteristics (such as threshold amounts and match rates) required to stimulate participation in the demonstration project, and how such characteristics vary among different populations or communities.

(7) What service configurations of the qualified entity (such as configurations relating to peer support, structured planning exercises, mentoring, and case management) increased the rate and consistency of participation in the demonstration project and how such configurations varied among different populations or communities.

(8) Such other information as the Secretary may require to evaluate the demonstration project.

(b) SUBMISSION OF REPORTS.—The qualified entity shall submit each report required to be prepared under subsection (a) to—

(1) the Secretary; and

(2) the Treasurer (or equivalent official) of the State in which the project is conducted, if the State or a local government or a tribal government committed funds to the demonstration project.

(c) TIMING.—The first report required by subsection (a) shall be submitted not later than 60 days after the end of the calendar year in which the Secretary authorized the qualified entity to conduct the demonstration project, and subsequent reports shall be submitted every 12 months thereafter, until the conclusion of the project.

SEC. 413. SANCTIONS.

(a) AUTHORITY TO TERMINATE DEMONSTRATION PROJECT.—If the Secretary determines that a qualified entity under this title is not operating a demonstration project in accordance with the entity's approved application under section 405 or the requirements

of this title (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such entity's authority to conduct the demonstration project.

(b) ACTIONS REQUIRED UPON TERMINATION.—If the Secretary terminates the authority to conduct a demonstration project, the Secretary—

(1) shall suspend the demonstration project;

(2) shall take control of the Reserve Fund established pursuant to section 407;

(3) shall make every effort to identify another qualified entity (or entities) willing and able to conduct the project in accordance with the approved application (or, if modification is necessary to incorporate the recommendations, the application as modified) and the requirements of this title;

(4) shall, if the Secretary identifies an entity (or entities) described in paragraph (3)—

(A) authorize the entity (or entities) to conduct the project in accordance with the approved application (or, if modification is necessary to incorporate the recommendations, the application as modified) and the requirements of this title;

(B) transfer to the entity (or entities) control over the Reserve Fund established pursuant to section 407; and

(C) consider, for purposes of this title—

(i) such other entity (or entities) to be the qualified entity (or entities) originally authorized to conduct the demonstration project; and

(ii) the date of such authorization to be the date of the original authorization; and

(5) if, by the end of the 1-year period beginning on the date of the termination, the Secretary has not found a qualified entity (or entities) described in paragraph (3), shall—

(A) terminate the project; and

(B) from the amount remaining in the Reserve Fund established as part of the project, remit to each source that provided funds under section 405(c)(4) to the entity originally authorized to conduct the project, an amount that bears the same ratio to the amount so remaining as the amount provided from the source under section 405(c)(4) bears to the amount provided from all such sources under that section.

SEC. 414. EVALUATIONS.

Deadline.
Contracts.

(a) IN GENERAL.—Not later than 10 months after the date of enactment of this title, the Secretary shall enter into a contract with an independent research organization to evaluate the demonstration projects conducted under this title, individually and as a group, including evaluating all qualified entities participating in and sources providing funds for the demonstration projects conducted under this title.

(b) FACTORS TO EVALUATE.—In evaluating any demonstration project conducted under this title, the research organization shall address the following factors:

(1) The effects of incentives and organizational or institutional support on savings behavior in the demonstration project.

(2) The savings rates of individuals in the demonstration project based on demographic characteristics including gender, age, family size, race or ethnic background, and income.

(3) The economic, civic, psychological, and social effects of asset accumulation, and how such effects vary among different populations or communities.

(4) The effects of individual development accounts on savings rates, homeownership, level of postsecondary education attained, and self-employment, and how such effects vary among different populations or communities.

(5) The potential financial returns to the Federal Government and to other public sector and private sector investors in individual development accounts over a 5-year and 10-year period of time.

(6) The lessons to be learned from the demonstration projects conducted under this title and if a permanent program of individual development accounts should be established.

(7) Such other factors as may be prescribed by the Secretary.

(c) METHODOLOGICAL REQUIREMENTS.—In evaluating any demonstration project conducted under this title, the research organization shall—

(1) for at least one site, use control groups to compare participants with nonparticipants;

(2) before, during, and after the project, obtain such quantitative data as are necessary to evaluate the project thoroughly; and

(3) develop a qualitative assessment, derived from sources such as in-depth interviews, of how asset accumulation affects individuals and families.

(d) REPORTS BY THE SECRETARY.— Deadlines.

(1) INTERIM REPORTS.—Not later than 90 days after the end of the calendar year in which the Secretary first authorizes a qualified entity to conduct a demonstration project under this title, and every 12 months thereafter until all demonstration projects conducted under this title are completed, the Secretary shall submit to Congress an interim report setting forth the results of the reports submitted pursuant to section 412(b).

(2) FINAL REPORTS.—Not later than 12 months after the conclusion of all demonstration projects conducted under this title, the Secretary shall submit to Congress a final report setting forth the results and findings of all reports and evaluations conducted pursuant to this title.

(e) EVALUATION EXPENSES.—The Secretary shall expend 2 percent of the amount appropriated under section 416 for a fiscal year, to carry out the objectives of this section.

SEC. 415. TREATMENT OF FUNDS.

Of the funds deposited in individual development accounts for eligible individuals, only the funds deposited by the individuals (including interest accruing on those funds) may be considered to be the income, assets, or resources of the individuals, for purposes of determining eligibility for, or the amount of assistance furnished under, any Federal or federally assisted program based on need.

SEC. 416. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title, $25,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003, to remain available until expended.

Approved October 27, 1998.

LEGISLATIVE HISTORY—S. 2206:

HOUSE REPORTS: No. 105–788 (Comm. of Conference).
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CALIFORNIA CODES
GOVERNMENT CODE
SECTION **12750**-12763

12750. (a) A community action agency shall be a public or private nonprofit agency that fulfills all of the following requirements:

(1) Has been designated by the director to operate a community action program.

(2) Has a tripartite board structure meeting the requirements of Section 12751.

(3) Has the power, authority, and capability to plan, conduct, administer, and evaluate a community action program, including the power to enter into contracts with other public and private nonprofit agencies and organizations to assist in fulfilling the purposes of this chapter.

(b) A community action program is a locally planned and operated program comprising a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem.

(c) Component services and activities of a community action program may be administered directly by the community action agency, or by other agencies pursuant to delegation or subcontractual agreements with the eligible entity. They may be projects eligible for assistance under this chapter, or projects assisted from other public or private sources, and they may be either specially designed to meet local needs, or designed pursuant to the eligibility standards of the state or federal program providing assistance to a particular kind of activity that will help in meeting those needs.

(d) For the purpose of this chapter, a community may be a city, county, multicity or multicounty unit, that provides a suitable organizational base and possesses the commonality of interest needed for a community action program.

12750.1. (a) No new community action agency may be designated by the director for a political subdivision that is served by an existing community action agency unless any of the following exist:

(1) The political subdivision is informed in writing by the director that the existing community action agency has failed to comply, after having a reasonable opportunity to do so, with the requirements of this chapter, subject to paragraph (5) of subdivision (c) of Section 12781.

(2) The political subdivision is informed by its existing community action agency that because of changes in assistance furnished to programs to economically disadvantaged persons it can no longer operate a satisfactory community action program.

(3) The director is petitioned by significant numbers of eligible beneficiaries to reconsider its existing designation and, based on that reconsideration, determines to designate an alternate community action agency.

(b) In the event that the designation of an existing community action agency is revoked, the director shall designate a new community action agency within a period of 90 days after the effective date of the revocation, subject to Section **12750**.2.

(c) New community action agency designations may be made in political subdivisions or combinations of political subdivisions in a county or portion thereof for which no community action agency has been designated provided that the community to be served has a

population of at least 50,000, as determined by the Bureau of Census from the most recent available census or survey. The director may waive the general requirement that the community to be served have a population of at least 50,000 in those instances where no practical grouping of contiguous political subdivisions can be made in order to meet that requirement.

(d) A private nonprofit agency that serves a political subdivision or combination of political subdivisions having more than 50,000 population shall be entitled to petition the department for state designation as a community action agency, provided it has a governing board meeting community action agency requirements and has the capability to plan, conduct, administer, and evaluate a community action program.

12750.2. For purposes of serving any area of the state in which community action programs cease to be provided, the director shall designate an organization in accordance with Section 9909 of Title 42 of the United States **Code**, as amended, and through a process that shall include all of the following:

(a) Notice of intent to designate.

(b) Request for proposals by any political subdivision or by any other qualified organization that can demonstrate adequate representation of low-income individuals in the development, planning, implementation, and evaluation of the community action program.

(c) Invitation to the political subdivision to participate in the review of the proposals.

12751. Each community action agency shall have a board of directors conforming to the following requirements:

(a) One-third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting this requirement.

(b) At least one-third of the members are persons chosen in accordance with democratic selection procedures outlined in regulations promulgated by the department to assure that the members represent the poor and reside in the area served.

(c) The remainder of the members are officials or members of business, industry, labor, religious, human services, education, or other major groups and interests in the community.

12752. The powers of the tripartite governing board of the nonprofit community action agency shall include the power to appoint the executive director, to determine major personnel, fiscal, and program policies, to approve overall program plans and priorities, and to assure compliance with conditions of and approve proposals for financial assistance under this chapter.

12752.1. (a) If a political subdivision or local **government** is designated as a community action agency, it shall do all of the following:

(1) Establish a tripartite advisory or administering board to provide input to the political subdivision or local **government**

regarding the activities of the community action agency.
(2) Share with its tripartite board the determination of the community action agency's program plans and priorities.
(3) Provide for the participation of the tripartite board in the selection of the executive director of the community action agency, unless prohibited by local law, city charter, or civil service procedure.
(b) The political subdivision or local **government** may, consistent with general and local law, delegate any or all of the following powers to the tripartite board:
(1) To determine its own rules and procedures and to select its own officers and executive committee.
(2) To determine, subject to the ratification of designating officials, the community action agency's major personnel, organizational, fiscal, and program policies.
(3) To approve, subject to the ratification of designating officials, all program proposals, budgets and subcontractor agreements.
(4) To oversee the extent and the quality of the participation of the poor in the programs of the community action agency.

12753. (a) Each community action agency shall adopt procedures to provide a continuing and effective mechanism for securing broad community involvement in programs assisted under this act and for ensuring that all groups or elements represented on the tripartite board have a full and fair opportunity to participate in decisions affecting those programs.
(b) Community action agencies shall establish procedures under which community agencies and representative groups of the poor that feel themselves inadequately represented on the tripartite board may petition for adequate representation.

12754. In exercising its powers and carrying out its overall responsibility for a community action program, a community action agency shall have, subject to the purposes of this chapter, at least the following functions:
(a) Planning systematically for and evaluating the program, including actions to develop information as to the problems and causes of poverty in the community, determine how much and how effectively assistance is being provided to deal with those problems and causes, and establish priorities among projects, activities, and areas as needed for the best and most efficient use of resources.
(b) Encouraging agencies engaged in activities related to the community action program to plan for, secure, and administer assistance available under this chapter or from other sources on a common or cooperative basis; providing planning or technical assistance to those agencies; and generally, in cooperation with community agencies and officials, undertaking actions to improve existing efforts to overcome poverty.
(c) Initiating and sponsoring projects responsive to needs of the poor that are not otherwise being met.
(d) Establishing effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, providing for their regular participation in the implementation of those programs, and providing technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from public and private sources.
(e) Joining with and encouraging business, labor, and other

private groups and organizations to undertake, together with public officials and agencies, activities, in support of the community action program that will result in the additional use of private resources and capabilities, with a view to things such as developing new employment opportunities, stimulating investment that will have a measurable impact in reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.

12756. Every community action agency has a fundamental responsibility to encourage, assist, and strengthen the ability of the poor in the areas served by the community action agency to play major roles in the organization; program planning; goal setting; determination of priorities; decisions concerning budgeting and financial management; key decisions concerning hiring of personnel, selection criteria, personnel policies, and career development programs; and evaluation of programs affecting their lives. The fundamental responsibility of the community action agency includes all of the following:

(a) Seeking and bringing about ways to improve its own effectiveness as a channel through which the poor, local **government**, and private groups can communicate, plan, and act together in partnership. In that partnership, the poor shall have a strong voice or role, both directly and through representatives whom they have chosen.

(b) Providing the representatives of the poor serving on the tripartite board of the community action agency with the tools and the support, including guidance, training, and staff assistance, that will permit them to participate meaningfully in the affairs of the community action agency, and in all of its programs and subcontractor agencies.

(c) Encouraging the development of effective local organizations established and controlled by residents of poor neighborhoods and areas. Community action agencies are expected to provide training, technical assistance, and staff resources to enable the poor to develop, administer, and participate effectively in local area programs and to enter into the broader community discussion of problems and solutions relating to poverty.

(d) Providing employment for poor persons in all phases of the community action program.

(e) Continually ensuring that subcontractor agencies involve poor persons in the planning, conduct, and evaluation of subcontracted programs.

(f) Working for the acceptance by other public and private agencies and organizations serving the community of effective and growing involvement of the poor in the planning, conduct, and evaluation of all activities that affect them and their inclusion in career jobs in the agencies.

12757. Where a community action agency places responsibility for major policy determinations with respect to the character, funding, extent, and administration of and budgeting for programs to be carried on in a particular geographic area within the community in a subsidiary board, council, or similar agency, such board, council, or agency shall be broadly representative of the area and shall assure adequate opportunity for membership of elected public officials on such board, council, or agency.

12758. (a) All Community Services Block Grant funds made available by Congress shall be used by the state, together with any state funds as may from time-to-time be appropriated for this program, and any funds as may be transferred to this program from other federal block grants, in accordance with the annual Budget Act.

(b) No transfer of funds is permitted, under any circumstance, from the California Community Services Block Grant Program to any other block grant or program administered by the state or by the federal **government.**

12759. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Agency" means a community action agency, limited purpose agency, or other organization that qualifies as an eligible entity pursuant to this chapter and that receives financial assistance from the total program funds, as defined in paragraph (2).

(2) "Total program funds" means the federal Community Services Block Grant funds that remain after the amount reserved pursuant to subdivision (c) is set aside.

(3) "Uncapped program" means a program that serves an uncapped area, as defined in Section 12730.

(b) The director shall allocate federal Community Services Block Grant funds consistent with the following principles:

(1) The historic distinction between minimum and nonminimum funded agencies and other eligible entities shall be minimized and eventually eliminated.

(2) After the target allocation point as set forth in subdivision (c) is achieved, allocation adjustments shall treat all agencies equitably and without regard to minimum funding levels.

(3) If federal Community Services Block Grant funding is reduced or increased, funds shall be allocated so as to avoid abrupt changes in current allocations.

(c) For each fiscal year, the director shall first reserve from the annual federal Community Services Block Grant all amounts that federal or state law allows or requires to be set aside for statewide activities consistent with the purposes of the Community Services Block Grant, including, but not limited to, training, technical assistance, monitoring, coordination, and administration.

(d) (1) The goal of this section is to achieve a target allocation point for each agency. The target allocation for each agency, except uncapped program agencies, shall be either two hundred fifty thousand dollars ($250,000) or the amount the agency received from the 2005 federal Community Services Block Grant award, whichever is greater. The target allocation point for each uncapped program shall be the amount it received from the 2005 federal Community Services Block Grant award. An agency with a target allocation point equal to the amount received from the 2005 federal Community Services Block Grant award shall have its target allocation point further adjusted pursuant to paragraph (6).

(2) The director shall first assign an initial base allocation for each agency, except an uncapped program agency, that shall be equal to either one hundred seventy-three thousand five hundred fifty-six dollars ($173,556) or the amount the agency received from the 2005 federal Community Services Block Grant award, whichever is greater. The director shall assign each uncapped program an initial base allocation that shall be equal to the amount the program received from the 2005 federal Community Services Block Grant award even if it is less than one hundred seventy-three thousand five hundred fifty-six dollars ($173,556).

(3) From the 2007 federal Community Services Block Grant, the

director shall begin by allocating the initial base allocation to each agency. If the total program funds available that year are more than the amount required to fulfill the initial base allocation for all agencies, the allocation shall be adjusted pursuant to paragraph (4). If the total program funds available that year are less than the amount required to fulfill the initial base allocation, the allocation shall be adjusted pursuant to paragraph (5).

(4) Commencing with the 2007 federal fiscal year, if there is an increase in total program funds in any federal fiscal year before the target allocation point is achieved, the additional funds shall be allocated as follows:

(A) First, each agency that is not an uncapped program whose prior year allocation was less than two hundred fifty thousand dollars ($250,000) shall have its allocation increased until each of those agencies reach the target allocation point of two hundred fifty thousand dollars ($250,000). The allocations to these agencies shall be prioritized initially to the lowest funded agencies to enable their allocations to, as much as the funding increase allows, float up toward the second lowest funded agencies, and then to this collective group of agencies to enable their allocations to float up toward the next lowest funded agencies, and so on until all of these agencies reach the target allocation point of two hundred fifty thousand dollars ($250,000).

(B) Second, once the target allocation point of two hundred fifty thousand dollars ($250,000) is reached pursuant to subparagraph (A), additional funds shall be allocated proportionately among each of the agencies, including uncapped program agencies whose target allocation point equals the amount the agency received from the 2005 federal Community Services Block Grant award, in order to bring its prior year allocation back up to the target allocation point if it was previously reduced pursuant to paragraph (5).

(C) Third, if there are some total program funds remaining during the same federal fiscal year when the target allocation point for all agencies is reached, the remainder shall be allocated to each agency in an amount that bears the same relationship to the total amount of the remainder as the number of persons living in households at or below the poverty level in each agency's respective service area bears to the total number of those persons living in the state, as reported in the most recent available decennial census.

(5) Commencing with the 2007 federal fiscal year, if there is a decrease in total program funds in any fiscal year before the target allocation point is reached, the reduction shall be allocated as follows:

(A) First, the reduction shall be subtracted proportionately from the prior years' allocation of each agency whose initial base allocation was greater than two hundred fifty thousand dollars ($250,000).

(B) Second, no agency shall have its current year allocation fall below the current year allocation for any other agency when the other agency's initial base allocation was less than the first agency's allocation. If the reduction in total program funds is greater than can be absorbed among the agencies whose initial base allocations were greater than two hundred fifty thousand dollars ($250,000), the reductions shall also be applied proportionately among any other agencies necessary to maintain this rule.

(C) Until the target allocation point is reached for all agencies, an agency that is not an uncapped program shall not have its current year allocation fall below one hundred seventy-three thousand five hundred fifty-six dollars ($173,556). At the discretion of the director, federal Community Services Block Grant discretionary funds may be used for this purpose.

(6) If a new decennial census is reported before the target allocation point is achieved, the director shall first adjust the

relative allocation among each of those agencies whose initial base allocation was equal to the amount it received from the 2005 federal Community Services Block Grant award by the percentage difference of the number of persons living in households at or below the poverty level in each agency's respective service area as compared to the number of those persons reported in previous decennial census, except that an agency that is not an uncapped program shall not have the adjustment pursuant to this paragraph reduce its current year allocation below the current year allocations of the lowest funded agencies pursuant to subparagraph (A) of paragraph (4). All allocations made pursuant to paragraphs (4) and (5) shall take this census-based adjustment into account.

(e) (1) Commencing with the first federal fiscal year after the target allocation point is reached, increases and decreases in total program funds for each federal fiscal year shall be proportionately allocated among all agencies relative to the prior year's allocation.

(2) When each decennial census is reported, allocations made pursuant to this subdivision shall also be adjusted by the percentage difference of the number of persons living in households at or below the poverty level in each agency's respective service area as compared to the number of these persons reported in the previous decennial census, except that an agency that is not an uncapped agency shall not have the adjustment pursuant to this subdivision reduce its current year allocation below two hundred fifty thousand dollars ($250,000).

(f) It is the intent of the Legislature that the allocation formula specified in this section not be used as a formula for other funding distributions.

12760. Community action agencies funded under this article shall coordinate their plans and activities with other eligible entities funded under Articles 7 (commencing with Section 12765) and 8 (commencing with Section 12770) that serve any part of their communities, so that funds are not used to duplicate particular services to the same beneficiaries and plans and policies affecting all grantees under this chapter are shaped, to the extent possible, so as to be equitable and beneficial to all community agencies and the populations they serve.

12761. A community action agency or eligible entity shall not use any funds received under this article to replace discontinued state or local funding.

12763. Consistent with Section 1090, no Member of the Legislature, or any state, county, district, judicial district, or city officer or employee who also serves on a tripartite board shall vote on a contract or other matter before a tripartite board, that would have a direct bearing on services to be provided by that member, officer, or employee, or any business or organization which that member, officer, or employee directly represents or that would financially benefit that member, officer, or employee, or the business or organization that the member, officer, or employee directly represents.

CALIFORNIA CODES
GOVERNMENT CODE
SECTION **12725**-12729

12725. This chapter may be cited as the California Community Services Block Grant Program.

12726. (a) The purpose of this chapter is to provide authorization for the Governor of the State of California to assume responsibility for the Community Services Block Grant (Subtitle B, Title VI, Public Law 97-35, as amended), and to further provide for the state to implement this block grant in conformity with the principles, purposes, and policies of the California Community Services Block Grant Program set forth herein.

(b) The Legislature intends that the California Community Services Block Grant Program shall be governed by the principle of community self-help, thereby promoting new economic opportunities for Californians living in poverty through well planned, broadly based and locally controlled programs of community action.

12727. All activities of the California Community Services Block Grant Program eligible entities shall have the following basic and specific purposes:

(a) The basic purpose of this chapter is to stimulate an effective concentration of all available local, state, private, and federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas to attain the skills, knowledge, and motivations and to secure the opportunities needed for them to become fully self-sufficient.

(b) The specific purposes of this chapter are to promote, as methods of achieving an effective concentration of resources on the goal of individual and family self-sufficiency, the following:

(1) The strengthening of community capabilities for planning and coordinating federal, state, private, and other assistance related to the elimination of poverty, so that this assistance, through the efforts of local officials, organizations, and interested and affected citizens, can be made more responsive to local needs and conditions.

(2) The coherent organization of a range of services related to the needs of the poor, so that these services may be made more effective and efficient in helping families and individuals to overcome poverty-related problems in a way that takes into account, and supports, their progress in overcoming identified causes of poverty.

(3) The implementation, subject to adequate evaluation, of new types of services and innovative approaches toward eliminating causes of poverty, so as to develop increasingly effective methods of employing available resources.

(4) Maximum feasible participation of members of the groups and residents of the low-income areas to be served by programs and projects in the development and implementation of those programs and projects, in order to assure that all programs and projects are meaningful to, and widely utilized by, their intended beneficiaries.

(5) The broadening of the resource base directed towards the elimination of poverty, so as to secure, in addition to the services and assistance of public officials, private religious, charitable,

and neighborhood organizations, and individual citizens, a more active role for business, labor, and professional groups able to provide employment opportunities or otherwise influence the quantity and quality of services of concern to the poor.

(c) It is the finding of the Legislature that these state purposes and the intent of the federal Community Services Block Grant will best be served by enacting the program policies and requirements contained in this chapter.

12728. Notwithstanding any other provision of law, the provisions of this chapter shall supersede and prevail over any provisions of law relating to or in any way dealing with the subject matter of this chapter or federal economic opportunity programs which were repealed by federal Public Law 97-35, as amended.

12729. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

CHAPTER I.

PURPOSE AND SCOPE

The Ralph M. Brown Act (Gov. Code, § 54950[1] et seq., hereinafter "the Brown Act," or "the Act") governs meetings conducted by local legislative bodies, such as boards of supervisors, city councils and school boards. The Act represents the Legislature's determination of how the balance should be struck between public access to meetings of multi-member public bodies on the one hand and the need for confidential candor, debate, and information gathering on the other. As the rest of this pamphlet will indicate, the Legislature has established a presumption in favor of public access. As the courts have stated, the purpose of the Brown Act is to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation by public bodies. (*Cohan* v. *City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 555.) To these ends, the Brown Act imposes an "open meeting" requirement on local legislative bodies. (§ 54953 (a); *Boyle* v. *City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1116.)

However, the Act also contains specific exceptions from the open meeting requirements where government has a demonstrated need for confidentiality. These exceptions have been construed narrowly; thus if a specific statutory exception authorizing a closed session cannot be found, the matter must be conducted in public regardless of its sensitivity. (§ 54962; *Rowen* v. *Santa Clara Unified School District* (1981) 121 Cal.App.3d 231, 234; 68 Ops.Cal.Atty.Gen. 34, 41-42 (1985).)

Where matters are not subject to a closed meeting exception, the Act has been interpreted to mean that all of the deliberative processes by legislative bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny. (*Sacramento Newspaper Guild* v. *Sacramento County Bd. of Suprs.* (1968) 263 Cal.App.2d 41; 42 Ops.Cal.Atty.Gen. 61, 63 (1963); 32 Ops.Cal.Atty.Gen. 240 (1958).) The Act only applies to multi-member bodies such as councils, boards, commissions and committees since, unlike individual decision makers, such bodies are created for the purpose of reaching collaborative decisions through public discussion and debate.

A host of provisions combine to provide public access to the meetings of legislative bodies. For example, the times and dates of all meetings must be noticed and an agenda must be prepared providing a brief general description of all matters to be discussed or considered at the meeting. (§§ 54954, 54954.2.) As a precondition to attending the meeting, members of the public may not be asked to provide their names. (§ 54953.3.) While in attendance, members of the public may make video or audio recordings of the meeting. (§ 54953.5.) As a general rule, information given to a majority of the members of the legislative body in connection with an open meeting must be equally available to members of the public. (§ 54957.5.) Before or during consideration of each agenda item, the public must be given an opportunity to comment on the item. (§ 54954.3(a).)

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[1] All statutory references are to the Government Code except as otherwise indicated.

While the Act creates broad public access rights to the meetings of legislative bodies, it also recognizes the legitimate needs of government to conduct some of its meetings outside of the public eye. Closed-session meetings are specifically defined and are limited in scope. They primarily involve personnel issues, pending litigation, labor negotiations and real property acquisitions. (§§ 54956.8, 54956.9, 54957, 54957.6.) Each closed-session meeting must be preceded by a public agenda and by an oral announcement. (§§ 54954.2, 54957.7.) When final action is taken in closed session, the legislative body may be required to report on such action. (§ 54957.1.)

The following chapters contain a more detailed discussion of the persons governed by the Act, the notice and agenda requirements, access rights of the public, limitations on closed sessions and available remedies for violation of the Act.

CHAPTER II.

BODIES SUBJECT TO THE BROWN ACT

The Brown Act applies to the "legislative bodies" of all local agencies in California, e.g., councils, boards, commissions and committees. (§§ 54951, 54952.) In addition, any person elected to serve as a member of a legislative body who has not assumed the duties of office shall conform his or her conduct to the requirements of the Act, and shall be treated for purposes of enforcement of the Act as if he or she had already assumed office. (§ 54952.1; see, 216 *Sutter Bay Associates* v. *County of Sutter* (1997) 58 Cal.App.4th 860.)

The Act does not apply to individual decision makers who are not elected or appointed members of legislative bodies such as agency or department heads when they meet with advisors, staff, colleagues or anyone else. Similarly, the Act does not apply to multi-member bodies which are created by an individual decision maker. (75 Ops.Cal.Atty.Gen. 263, 269 (1992); 56 Ops.Cal.Atty.Gen. 14, 17 (1973).) However, where a body directs or authorizes a single individual to appoint a body, it would probably be subject to the Act. (*Frazer* v. *Dixon Unified School District* (1993) 18 Cal.App.4th 781, 793; *International Longshoremen's & Warehousemen's Union* v. *Los Angeles Expert Terminal, Inc*. (1999) 69 Cal.App.4th 287, 297.) Boards and commissions that are created by statute or ordinance are subject to the Act even if they are under the jurisdiction of an individual department head.

A single individual acting on behalf of an agency is not a "legislative body" since the definition of that term connotes a group of individuals. Thus, a hearing officer, functioning by himself or herself in an employee disciplinary hearing, is not a legislative body (*Wilson* v. *San Francisco Mun. Ry*. (1973) 29 Cal.App.3d 870, 878-879), nor is an individual city councilmember screening candidates for a vacant city office. (Cal.Atty.Gen., Indexed Letter, No. IL 76-181 (September 13, 1976).)

The Act applies to the meetings of "legislative bodies" of "local agencies." An understanding of each of these terms is necessary in order to properly apply the provisions of the Act to individual situations. These terms will be discussed in the following sections.

1. Local Agencies

Local agencies include all cities, counties, school districts, municipal corporations, special districts, and all other local public entities. (§ 54951.) The first determination one must make in assessing the applicability of the Act is whether the agency is local in nature. If the agency is essentially local in character, it is probably subject to the Act. (§ 54951.) If, however, the agency is a multi-member state body, the Bagley-Keene Act applies. (§ 11120 et seq.) The fact that an agency is created by state or federal law, rather than local ordinance, does not mean that the agency is not essentially local in character. (§ 54952(a).) Factors in assessing the local versus state character of a body may include: the geographical coverage of the agency, the duties of the agency, provisions concerning membership and appointment, or the existence of an oversight agency.

The issue of whether an agency is local or state in character was addressed in *Torres* v. *Board of Commissioners* (1979) 89 Cal.App.3d 545, in the context of determining whether a housing authority was subject to the Act. The court stated:

> "While a housing authority may be a state agency for some purposes . . . if it is within the Brown Act's definition of a local agency, it is simply not included within the State Act. We hold that a housing authority created by Health and Safety Code section 34200 et seq. is included within the statutory definition of a local agency under the Brown Act in that it is either an 'other local public agency' or a 'municipal corporation' or both, as those terms are used in Government Code section 54951. . . . The term 'municipal corporation' is broader than the term 'city,' particularly when the term 'city' already appears in the applicable statute. . . . In order to give meaning to the term 'municipal corporation' in Government Code section 54951 we hold that such term is not restricted to its technical sense of a 'city,' general law or charter, but rather includes such entities as housing authorities. . . . In addition, a housing authority is local in scope and character, restricted geographically in its area of operation, and does not have statewide power or jurisdiction even though it is created by, and is an agent of, the state rather than of the city or county in which it functions. . . .
>
> "Furthermore, as perceptively noted by the trial court, the placement of Government Code section 11120 and its history is some persuasive indication that the State Act was meant to cover executive departments of the state government and was not meant to cover local agencies merely because they were created by state law. A housing authority is no more a state agency under

> these acts than is a city or a county. The fact that such entities from time to time administer matters of state concern may make them state agents for such purposes but not state agencies under the open meeting acts." [Citations omitted.] (*Torres* v. *Board of Commissioners* (1979) 89 Cal.App.3d 545, 549-550.)

The Act has also been found to apply to an air pollution control district (71 Ops.Cal.Atty.Gen. 96 (1988)), a regional open space district (73 Ops.Cal.Atty.Gen. 1 (1990), and to such other local bodies as area and local voluntary health planning agencies (Cal.Atty.Gen., Indexed Letter, No. IL 72-79 (April 4, 1979).) The Act is a matter of statewide concern and, therefore, applies equally to charter and general law cities. (*San Diego Union* v. *City Council* (1983) 146 Cal.App.3d 947, 957.)

The Act does not apply to the judicial branch of government or boards and commissions which are an adjunct to the judiciary. (See Cal.Atty.Gen., Indexed Letter, No. IL 75-109 (June 3, 1975); Cal.Atty.Gen., Indexed Letter, No. IL 62-46 (May 15, 1962); Cal.Atty.Gen., Indexed Letter, No. IL 60-16 (February 14, 1960).) This office has also concluded the Act is not applicable to county central committees of a political party because they are neither public entities nor are they included in any of the special statutory provisions of the Act. (59 Ops.Cal.Atty.Gen. 162, 164 (1976).)

2. Legislative Bodies

Having concluded that the Act applies to bodies that are "local" in character, we turn now to a discussion of the requirement that such local bodies qualify as "legislative bodies" within the meaning of the Act. The term "legislative body" is not used in its technical sense in the Act. (§ 54952.) The Act's application is not limited to boards and commissions insofar as they perform "legislative" functions. Bodies that perform actions which are primarily executive or quasi-judicial in nature are also subject to the Act as well. (61 Ops.Cal.Atty.Gen. 220 (1978); 57 Ops.Cal.Atty.Gen. 189 (1974).)

In the past, the different types of bodies covered by the Act were set forth in several Government Code sections. This approach led to confusion with respect to the interrelationship between these sections and exemptions contained within them. (*Freedom Newspapers* v. *Orange County Employees Retirement System* (1993) 6 Cal.4th 821.) In 1994, the Legislature amended the Act to consolidate, into a single section, all of the provisions defining those bodies that are subject to the Act's requirements. (§ 54952.) By so doing, the Legislature hoped to clarify the definitions and the exemptions contained in them.

Below is a discussion of the various types of bodies that are defined as "legislative bodies" for purposes of the Act.

A. Governing Bodies

The governing bodies of local government agencies are the most basic type of body subject to the Act's requirements. These include the board of supervisors of a county, the city council of a city or the governing board of a district. (§ 54952(a).) In addition, the Act expressly applies to local bodies created by state or federal statute. (§54952(a).) The board of directors for a joint powers authority would be covered as a governing body of a local agency; joint powers authorities are also covered because they are created according to a procedure established by state law. (§ 6500 et seq.)

B. Subsidiary Bodies

Any board, commission, committee or other body of a local agency created by charter, ordinance, resolution or formal action of a legislative body is itself a legislative body. (§ 54952(b).) Generally, this is the case regardless of whether the body is permanent or temporary, advisory or decisionmaking. However, there is a specific exemption for an advisory committee which is comprised solely of less than a quorum of the members of the legislative body that created the advisory body. (§ 54952(b).) This exception does not apply if the advisory committee is a standing committee. (§ 54952(b).) A standing committee is a committee which has continuing jurisdiction over a particular subject matter (e.g., budget, finance, legislation) or if the committee's meeting schedule is fixed by charter, ordinance, resolution or other formal action of the legislative body that created it. (See examples, *infra,* p. 6.)

The term "formal action" is used twice in section 54952(b) in connection with advisory committees and standing committees. The term "formal action of a legislative body" appears to be a term intended to distinguish between the official actions of the body and the informal actions of particular board members. For example, in *Joiner* v. *City of Sebastopol* (1981) 125 Cal.App.3d 799, 805, the court concluded that the city council had taken formal action by designating two of its members to sit on an advisory committee and establish the committee's agenda, even though the council did not act by formal resolution. Similarly, in *Frazer* v. *Dixon Unified School District* (1993) 18 Cal.App.4th 781, 792-793, the court indicated that a school board's authorization to the superintendent to appoint a committee under specified circumstances constituted a creation of an advisory committee by formal action of the board. "Formal action of a legislative body" is not limited to a formal resolution or a formal vote by the body.

When a legislative body designates less than a quorum of its members that does not constitute a standing committee to meet with representatives of another legislative body to exchange information and report back to their respective bodies, a meeting between the representatives would be exempt from the Act. (*Joiner* v. *City of Sebastopol* (1981) 125 Cal.App.3d 799, 805.) However, if a legislative body designates less than a quorum of its members to meet with representatives of another legislative body to

perform a task, such as the making of a recommendation, an advisory committee consisting of the representatives from both bodies would be created. Such a committee would be subject to the open meeting and notice provisions of the Act. (*Joiner* v. *City of Sebastopol* (1981) 125 Cal.App.3d 799, 805.) The fact that the advisory committee was contingent upon the second body's compliance does not detract from the conclusion that the creation of the committee must be attributed to the first body's action. (*Joiner* v. *City of Sebastopol* (1981) 125 Cal.App.3d 799, 805.)

The following illustrates how section 54952(b) operates. A city council creates four bodies to address various city problems.

- Commission comprised of councilmembers, the city manager and interested citizens: This committee is covered by the Act because there is no exemption for it regardless of whether it is decisionmaking or advisory in nature.

- Advisory committee comprised of two councilmembers for the purpose of reviewing all issues related to parks and recreation in the city on an ongoing basis: This committee is a standing committee which is subject to the Act's requirements because it has continuing jurisdiction over issues related to parks and recreation in the city.

- Advisory committee comprised of two city councilmembers for the purpose of producing a report in six months on downtown traffic congestion: This committee is an exempt advisory committee because it is comprised solely of less than a quorum of the members of the city council. It is not a standing committee because it is charged with accomplishing a specific task in a short period of time, i.e., it is a limited term ad hoc committee.

- Advisory committee comprised of two councilmembers to meet on the second Monday of each month pursuant to city council resolution: This committee is subject to the Act as a standing committee because its meeting schedule is fixed by the city council.

C. Private or Nonprofit Corporations and Other Entities

Under specified circumstances, meetings of boards, commissions, committees or other multi-member bodies that govern private corporations, limited liability companies or other entities may become subject to the open meeting requirements of the Act. Ordinarily, these private corporations or other entities will be nonprofit corporations. In some instances, they are created by the governmental entity to support the efforts of the governmental entity. Other times they are privately created and, to some degree, may partner with a governmental entity to accomplish a common goal. (See Ed. Code, § 47604(a) [concerning possible application to charter schools].) The circumstances

that determine whether nonprofit corporations or other entities are governed by the Brown Act are set forth in section 54952(c).

The Act expressly applies to private corporations, limited liability companies and other entities that are created by the legislative body for the purpose of exercising authority which can be lawfully delegated to them. (§ 54952(c)(1); *Epstein* v. *Hollywood Entertainment District II Business Improvement District* (2000) 85 Cal.App.4th 152 [Property Owners Association covered because it received money from taxes on property and businesses within the Business Improvement District, and it was structured to assume certain administrative functions ordinarily performed by the city]; 85 Ops.Cal.Atty.Gen. 55 (2002) [Act covered private nonprofit corporation formed for the purpose of providing programming for a cable television channel set aside for educational use by a cable operator pursuant to its franchise agreement with a city and subsequently designated by the city to provide the programming services]; 81 Ops.Cal.Atty.Gen. 281, 290 (1998) [community redevelopment agency created nonprofit entity and delegated authority to it].) Typically, the entities subject to this subdivision will be nonprofit corporations established jointly by various government entities for the purpose of constructing, operating or maintaining a public works project or public facility. (*International Longshoremen's & Warehousemen's Union* v. *Los Angeles Expert Terminal, Inc.* (1999) 69 Cal.App.4th 287, 294.)

The Act also applies to the meetings of entities which receive funds from a local agency where the legislative body for the local agency appoints one of its members to the governing board of the entity as a voting member of the board. (§ 54952(c)(2).) The Act does not apply to boards of a nonprofit corporation or other entity where the legislative body appoints someone other than one of its own members to the governing body of such entity. It continues to be the law that the mere receipt of public funds by a nonprofit corporation or other entity does not subject it to the requirements of the Act.

D. Hospital Lessees

The Act expressly applies to the meetings of lessees of hospitals pursuant to Health and Safety Code section 32121, subdivision (p), where the hospital or any part of it was first leased after January 1, 1994, where the lessee exercises any delegated authority of a local government agency, whether or not the lessee was organized and operated by the local government agency or a delegated authority. (§ 54952(d).)

CHAPTER III.

MEETING DEFINED

The term "meeting" is defined in section 54952.2 and expressly discusses several types of meeting formats. First, the term "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss or deliberate upon any matter which is under the subject matter jurisdiction of the agency. (§ 54952.2(a).) Under this definition, face to face gatherings of a legislative body in which issues under the subject matter jurisdiction of the body are discussed, decided or voted upon are meetings subject to the Brown Act. Informal gatherings such as lunches or social gatherings also would constitute meetings if issues under the subject matter jurisdiction of the body are discussed or decided by the member of the body. Second, the Act specifically prohibits any use of direct communication, personal intermediaries or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken. (§ 54952.2(b).) Most often this type of meeting is conducted through a series of communications by individual members or less-than-a-quorum groups, ultimately involving a majority of the body's members. These meetings are called serial meetings. The Act also expressly excludes specified gatherings from its definition of a meeting. (§ 54952.2(c).)

Specific issues relating to these meeting formats are discussed below.

1. Face to Face Meetings

The definition of the term "meeting" contained in section 54952.2(a) includes any congregation of a majority of the members of a body at the same time and place to hear, discuss or deliberate on any issue under the subject matter jurisdiction of the body. This definition makes it clear that the body need not take any action in order for a gathering to be defined as a meeting. A gathering is a meeting if a majority of the members of the body merely receive information or discuss their views on an issue. A meeting also covers a body's deliberations, including the consideration, analysis or debate of an issue, and any vote which may ultimately be taken. Under this construction, any gathering of a majority of the members of a body to receive information, hear a proposal, discuss an issue or take any action on an issue under the subject matter jurisdiction of the body is a meeting subject to the notice and open meeting requirements of the Act.

Under section 54952.2, as well as prior case law, a gathering need not be formally convened in order to be covered by the Act. In *Sacramento Newspaper Guild* v. *Sacramento County Bd. of Suprs*. (1968) 263 Cal.App.2d 41, the court held that a luncheon gathering which included five county supervisors, the county counsel, a variety of county officers, and representatives of a union to discuss a strike which was under way against the county was a meeting within

the meaning of the Act. Therefore, the meeting should have been noticed and members of the media and public should have been admitted to witness the meeting. In reaching its conclusion, the court stated:

> "An informal conference or caucus permits crystallization of secret decisions to a point just short of ceremonial acceptance. There is rarely any purpose to a nonpublic pre-meeting conference except to conduct some part of the decisional process behind closed doors. Only by embracing the collective inquiry and discussion stages, as well as the ultimate step of official action, can an open meeting regulation frustrate these evasive devices. As operative criteria, formality and informality are alien to the law's design, exposing it to the very evasions it was designed to prevent. Construed in the light of the Brown Act's objectives, the term 'meeting' extends to informal sessions or conferences of the board members designed for the discussion of public business. The Elks Club luncheon, attended by the Sacramento County Board of Supervisors, was such a meeting." (*Sacramento Newspaper Guild* v. *Sacramento County Bd. of Suprs*. (1968) 263 Cal.App.2d 41, 50-51; see also 42 Ops.Cal.Atty.Gen. 61 (1963) ["informal," "study," "discussion," "informational," "factfinding," or "precouncil" gatherings of a quorum of the members of a board are within the scope of the Act as meetings].)

The Act contains the following specific exemptions.

A. Conferences and Retreats

The Act exempts conferences and similar gatherings, which are open to the public, that involve issues of interest to the public or to public agencies of the type represented by the legislative body in question, so long as the majority of the members of the legislative body do not discuss among themselves, other than as part of the scheduled program, any issues of a specific nature which are within the subject matter jurisdiction of the legislative body. (§ 54952.2(c)(2).) However, the conference need not necessarily be a conference of public agencies to fall within the exemption; rather, the gathering could be a conference of media outlets, environmental organizations, health care entities, social welfare organizations so long as the subject of the conference is related to the body's jurisdiction. The exemption for conferences does contain two limitations. First, a majority of the members of the legislative body in attendance at the conference may not caucus or discuss among themselves business of a specific nature within the body's jurisdiction. However, members may enter into discussions on issues or business affecting their local agency in a public forum as part of the scheduled program of the conference. Second, the conference must be open to the public, although the exemption specifically provides that a member of the public need not be provided with free admission where others are charged a fee.

Agency retreats, unlike conferences, do not involve a number of public agencies and interested individuals apart from the legislative body itself. Therefore, retreats continue to be subject to the open meeting and notice requirements of the Act.

B. Other Public Meetings

When a majority of a legislative body attends an open and publicized meeting held by a person or organization, other than the local agency on a matter of local interest, the legislative body is not deemed to be conducting a meeting, so long as the members in attendance do not discuss among themselves, other than as part of the scheduled program, issues of a specific nature related to the subject matter jurisdiction of the body. (§ 54952.2(c)(3).) This exception applies to attendance at a meeting conducted by a private individual, or private organization, so long as the meeting concerns issues of local interest and is open to the public and well publicized in advance. Under the terms of the exception, members of a legislative body who attend a meeting conducted by another person or organization may not caucus or discuss among themselves specific business within the body's jurisdiction. However, a member of the legislative body may discuss issues related to the purpose of the meeting during public testimony. Candidate debates including incumbents and challengers would be permitted under this exception.

C. Meetings of Other Legislative Bodies

When a majority of the legislative body attends an open and noticed meeting of another legislative body of the same or a different local agency, the legislative body is not deemed to be conducting a meeting, so long as the members in attendance do not discuss, among themselves, other than as part of the scheduled meeting, issues of a specific nature related to the subject matter jurisdiction of the body. (§ 54952.2(c)(4).) Thus, when a majority of a planning commission attends a meeting of the city council for the same city, it need not treat such attendance as a meeting of the planning commission for purposes of the Act. Similarly, when a majority of the members of a city council attend a meeting of the county board of supervisors, the city council is not conducting a meeting within the meaning of the Act. However, if two bodies conduct a joint meeting, each body should notice the meeting as a joint meeting of the two bodies. This exception, which is contained in section 54952.2(c)(4), does not apply when a majority of the members of a parent legislative body attend a meeting of a standing committee of the parent body. However, section 54952.2(c)(6) specifically addresses this issue. It provides that a majority of the parent body may attend an open and noticed meeting of a standing committee so long as the members who are not members of the standing committee and which cause a majority of the parent body to be present, attend only as observers. In 81 Ops.Cal.Atty.Gen. 156, 158 (1998), this office concluded that persons who attended solely as observers could not address the

committee by testifying, asking questions or providing information. In addition, the opinion concluded that observers could not sit at the dias.

D. Social or Ceremonial Occasions

Attendance by a majority of the members of the legislative body at a purely social or ceremonial occasion is not deemed to be a meeting, so long as the members do not discuss among themselves specific business within the jurisdiction of the body. (§ 54952.2(c)(5).) This has long been the law in California. (*Sacramento Newspaper Guild* v. *Sacramento County Bd.* of *Suprs.* (1968) 263 Cal.App.2d 41; 43 Ops.Cal.Atty.Gen. 36, 38 (1964).) In practice, this prohibition may sometimes be difficult to observe since persons attending social or ceremonial occasions frequently wish to discuss specific issues with their governmental officials. However, where a majority of a legislative body is present, the members must not discuss specific business within the jurisdiction of the body to avoid violating the Act.

2. Serial Meetings

The issue of serial meetings stands at the vortex of two significant public policies: first, the constitutional right of citizens to address grievances and communicate with their elected representatives; and second, the Act's policy favoring public deliberation by multi-member boards, commissions and councils. The purpose of the serial meeting prohibition is not to prevent citizens from communicating with their elected representatives, but rather to prevent public bodies from circumventing the requirement for open and public deliberation of issues.

The Act expressly prohibits serial meetings that are conducted through direct communications, personal intermediaries or technological devices for the purpose of developing a concurrence as to action to be taken. (§ 54952.2(b); *Stockton Newspapers, Inc.* v. *Redevelopment Agency* (1985) 171 Cal.App.3d 95, 103.) This provision raises two questions: first, what is a serial meeting for purposes of this definition; and second, what does it mean to develop a concurrence as to action to be taken.

Typically, a serial meeting is a series of communications, each of which involves less than a quorum of the legislative body, but which taken as a whole involves a majority of the body's members. For example, a chain of communications involving contact from member A to member B who then communicates with member C would constitute a serial meeting in the case of a five-person body. Similarly, when a person acts as the hub of a wheel (member A) and communicates individually with the various spokes (members B and C), a serial meeting has occurred. In addition, a serial meeting occurs when intermediaries for board members have a meeting to discuss issues. For example, when a representative of member A meets with representatives of members B and C to discuss an agenda item, the members have conducted a serial meeting through their representatives as intermediaries. The statutory definition also applies to situations in which technological devices are used to connect people at the same time

who are in different locations (but see the discussion below concerning the exception for teleconference meetings).

Once serial communications are found to exist, it must be determined whether the communications were used to develop a concurrence as to action to be taken. If the serial communications were not used to develop a concurrence as to action to be taken, the serial communications do not constitute a meeting and the Act is not applicable. In construing these terms, one should be mindful of the ultimate purposes of the Act -- to provide the public with an opportunity to monitor and participate in the decision-making processes of boards and commissions. As such, substantive conversations among members concerning an agenda item prior to a public meeting probably would be viewed as contributing to the development of a concurrence as to the ultimate action to be taken. Conversations which advance or clarify a member's understanding of an issue, or facilitate an agreement or compromise among members, or advance the ultimate resolution of an issue, are all examples of communications which contribute to the development of a concurrence as to action to be taken by the legislative body. Accordingly, with respect to items that have been placed on an agenda or that are likely to be placed upon an agenda, members of legislative bodies should avoid serial communications of a substantive nature concerning such items.

Problems arise when systematic communications begin to occur which involve members of the board acquiring substantive information for an upcoming meeting or engaging in debate, discussion, lobbying or any other aspect of the deliberative process either among themselves or with staff. For example, executive officers may wish to brief their members on policy decisions and background events concerning proposed agenda items. This office believes that a court could determine that such communications violate the Act, because such discussions are part of the deliberative process. If these communications are permitted to occur in private, a large part of the process by which members reach their decisions may have occurred outside the public eye. Under these circumstances, the public would be able only to witness a shorthand version of the deliberative process, and its ability to monitor and contribute to the decision-making process would be curtailed. Therefore, we recommend that when the executive director is faced with this situation, he or she prepare a memorandum outlining the issues for all of the members of the board as well as the public. In this way, the serial meeting violation may be avoided and everyone will have the benefit of reacting to the same information.

However, this office does not think that the prohibition against serial meetings would prevent an executive officer from planning upcoming meetings by discussing times, dates, and placement of matters on the agenda. It also appears that an executive officer may receive spontaneous input from any of the board members with respect to these or other matters so long as a quorum is not involved.

The express language of the statute concerning serial meetings largely codifies case law developed by the courts and the opinions issued by this office in the past. In *Frazer* v. *Dixon Unified School District* (1993) 18 Cal.App.4th 781, 796-798, the court concluded that the Act applies equally to the deliberations of a body and its decision to take action. If a collective commitment were a necessary component of every meeting, the body could conduct most or all of its deliberation behind closed doors so long as the body did not actually reach agreement prior to consideration in public session. Accordingly, the court concluded that the collective acquisition of information constituted a meeting. The court cited briefing sessions as examples of deliberative meetings which are subject to the Act's requirements, and contrasted these sessions with activities that fall outside the purview of the Act, such as the passive receipt of an individual's mail or the solitary review of a memorandum by an individual board member.

In *Stockton Newspapers, Inc.* v. *Redevelopment Agency* (1985) 171 Cal.App.3d 95, 105, the court concluded that a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting. In that case, the attorney individually polled the members of the body for their approval on a real estate transaction. The court concluded that even though the meeting was conducted in a serial fashion, it nevertheless was a meeting for the purposes of the Act. (See also, 65 Ops.Cal.Atty.Gen. 63, 66 (1982); 63 Ops.Cal.Atty.Gen. 820, 828-829 (1980).)

3. Individual Contacts Between Members of the Public and Board Members

The prohibition against serial meetings must be reconciled with the exemption for individual contacts and communications contained in section 54952.2(c)(1). Individual contacts or communications between a member of a legislative body and any other person are specifically exempt from the definition of a meeting. (§ 54952.2(c)(1).) The purpose of this exception appears to be to protect the constitutional rights of individuals to contact their government representatives regarding issues which concern them. To harmonize this exemption with the serial meeting prohibition, the term "any other person" is construed to mean any person other than a board member or agency employee. Thus, while this provision exempts from the Act's coverage conversations between board members and members of the public, it does not exempt conversations among board members, or between board members and their staff.

By using the words "individual contacts or conversations" it appears that the Legislature was attempting to ensure that individual contacts would not be defined as a meeting, while still preventing the members of a body from orchestrating contacts between a private party and a quorum of the body. Accordingly, if a member of the public requests a conversation with an individual member of the board, who then acts independently of the board and its other members in deciding whether to talk with the member of the public, no meeting will have occurred even if the member of the public ultimately meets with a quorum of the body.

4. Teleconference Meetings

The prohibition against serial meetings specifically exempts teleconference meetings conducted according to the procedures set forth in section 54953(b). All other teleconference meetings are prohibited. (§ 54952.2(b).)

A teleconference meeting is a meeting in which one or more members of the body attend the meeting from a remote location via electronic means, transmitting audio or audio/video. A meeting is not subject to the teleconference meeting requirements where only the staff members or other persons retained to advise the body appear from remote locations via audio or audio/visual transmission, where it is in the public interest to do so. A local agency may, at its discretion, permit the public to attend its meetings from additional remote locations.

Section 54953(b) authorizes the conduct of meetings by legislative bodies through teleconferencing under specified circumstances. Teleconferencing may be used for all purposes in conjunction with any meeting within the subject matter jurisdiction of the body. However, at least a quorum of the members of the body must participate from locations that are within the boundaries over which the body exercises jurisdiction. All votes taken during a teleconference meeting must be conducted by rollcall.

The biggest issue surrounding the use of teleconference meetings concerns the public's access to the meeting. The Act requires that each teleconference location must be fully accessible to members of the public. This means that members of the body who choose to utilize their homes or offices as teleconference locations must open these locations to the public and accommodate any member of the public who wishes to attend the meeting at that location. Moreover, members of the public must be able to hear the meeting and testify from each location. Finally, the teleconference location must be accessible to the disabled. Because of these requirements, most agencies choose to utilize official or public meeting facilities for their remote teleconference sites.

When a body elects to use teleconferencing, it must post an agenda at each teleconference location and list each teleconference location in the notice and agenda. Each teleconference meeting must be conducted in such a manner so as to protect the statutory and constitutional rights of the public. Each teleconference meeting agenda must ensure the public's right to testify at each teleconference location in accordance with section 54954.3.

In 84 Ops.Cal.Atty.Gen. 181 (2001), a disabled boardmember asked if, under the federal Americans with Disabilities Act, a body were required to utilize the teleconference meeting provisions to permit him to participate in a meeting where his disability prevented him from attending. In this situation, the public would not receive notice of the teleconference meeting location nor would they have access to the remote site from where the disabled member would attend. Under these circumstances, this office concluded that the teleconference provisions were not available because the public would not have access to the remote site.

5. Writings as Meetings

Historically, meetings have not commonly occurred through written instruments; however, the court found that circulation of a proposal among board members for their review and signature was found to be a meeting in violation of the Act when a majority of the members of a legislative body signed the document. (*Common Cause* v. *Stirling* (1983) 147 Cal.App.3d 518, 523-524.) However, the emergence of e-mail as a simple and effective means of communication has raised this issue in a fresh context. In 84 Ops.Cal.Atty.Gen. 30 (2001), this office concluded that a majority of a body would violate the Act if they e-mailed each other regarding current issues under the body's jurisdiction even if the e-mails were also sent to the secretary and chairperson of the agency, the e-mails were posted on the agency's Internet Web site, and a printed version of each e-mail was reported at the next public meeting of the body. The opinion concluded that these safeguards were not sufficient to satisfy either the express wording of the Act or some of its purposes. Specifically, such e-mail communications would not be available to persons who do not have Internet access. Even if a person had Internet access, the deliberations on a particular issue could be completed before an interested person had an opportunity to become involved.

In the case of *Roberts* v. *City of Palmdale* (1993) 5 Cal.4th 363, 381, the California Supreme Court stated that a memorandum from a body's attorney to the members of the body did not constitute a meeting under the Act. The court concluded that this one-way memorandum, which represented a confidential attorney-client communication exempt from disclosure under the California Public Records Act, was outside the coverage of the Act. Under the California Public Records Act, the memorandum was expressly exempt from disclosure pursuant to section 6254(k). Had the members of the body sought to meet and discuss the memorandum, such a meeting would have been subject to the Act and could have been conducted in closed session only if it qualified under the pending litigation exception contained in section 54956.9. Any other conversations between the members of the body and the attorney concerning the exempt memorandum would be subject to the serial meeting restrictions discussed previously.

CHAPTER IV.

NOTICE AND AGENDA REQUIREMENTS

The Brown Act provides for three different types of meetings. Regular meetings occur at a time and location generally set by ordinance, resolution, or by-laws. At least 72 hours prior to a regular meeting, an agenda must be posted which contains a brief general description of each item to be transacted or discussed at the meeting. Special meetings may be called at any time but notice must be received at least 24 hours prior to the meeting by all members of the body and by all media outlets that have requested notice in writing. Emergency meetings, which are extraordinarily rare, may be called upon one-hour notice to media outlets that have requested notice in writing.

In addition to the pre-meeting notices and agendas discussed above, the Act requires two other types of disclosures. First, prior to meeting in closed session, a representative of the body must orally announce the items to be discussed in closed session. (§ 54957.7(a).) Generally, this requirement may be satisfied by referring to the numbered item on the agenda which describes the closed session in question. However, when the agency is meeting in closed session because of significant exposure to pending litigation as described in section 54956.9(b), the statement may need to include additional information as set forth in that section. (See discussion of pending litigation *infra.)*

Second, at the conclusion of each closed session, the agency must reconvene into open session. If any final decisions have been made in the closed-session meeting, a report may be required. (§ 54957.1.)

The Act also contains specific requirements with respect to adjourning or continuing meetings. (§§ 54955; 54955.1.) Lastly, unless specifically exempted, all meetings must be conducted within the geographical boundaries of the body's jurisdiction. (§ 54954(b).)

1. Regular Meetings

Each legislative body, except for advisory bodies and standing committees, shall provide for the time and place for regular meetings by ordinance, resolution, or by-laws. (§ 54954(a).) If a body calls a meeting at a time or place other than the time or place specified for regular meetings, it is either a special or emergency meeting. Accordingly, the body must satisfy the appropriate notice requirement, and should indicate the type of meeting on the notice. Even where it is not required, the body may wish to provide additional notice in the form of the type of notice and agenda provided for a regular meeting.

Meetings of advisory bodies and standing committees for which 72-hour notice is provided, pursuant to section 54954.2, are considered regular meetings. (§ 54954(a).)

A. Agenda Requirement

At least 72 hours prior to a regular meeting, the body must post an agenda containing a brief general description of each item to be discussed or transacted at the meeting, including items to be discussed in closed session. (§ 54954.2(a).) The Act makes it clear that discussion items must be placed on the agenda, as well as items which may be the subject of action by the body.

The purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body. In *Carlson* v. *Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, the court interpreted the agenda requirements

set forth in section 966 of the Education Code. That section required ". . . [a] list of items that will constitute the agenda for all regular meetings shall be posted. . . ." (*Carlson* v. *Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, 199.) In interpreting this section, the court stated:

> "In the instant case, the school board's agenda contained as one item the language 'Continuation school site change.' This was entirely inadequate notice to a citizenry which may have been concerned over a school *closure.*
>
> "On this point alone, we think the trial court was correct because the agenda item, though not deceitful, was entirely misleading and inadequate to show the whole scope of the board's intended plans. It would have taken relatively little effort to add to the agenda that this 'school site change' also included the discontinuance of elementary education at Canyon View and the transfer of those students to Ponderosa School." (*Carlson* v. *Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, 200, original emphasis; see also 67 Ops.Cal.Atty.Gen. 84, 87 (1984).)

However, the Legislature in section 54954.2 placed an important gloss on the requirement to provide a brief general description. That section expressly provides that the brief general description generally need not exceed 20 words in length. Thus, absent special circumstances, the legislative body may use a short description of less than 20 words to provide essential information about the item to members of the public. Where necessary, legislative bodies are free to provide a more detailed description, but as a general rule, they need not feel any obligation to do so (for more information about closed-session agenda description, see discussion *infra*).

In 78 Ops.Cal.Atty.Gen. 327, 331-332 (1995), this office concluded that the 72-hour notice requirement mandates local agencies to post their notices in locations which are accessible 24 hours a day for the 72 hours prior to the meeting. Accordingly, notices cannot be placed in buildings which are locked for some portion of the 72 hours immediately prior to the meeting.

The agenda requirement does not apply when certain unnoticed topics are discussed at a noticed meeting. For example, there is an exception for when a member of the body or a member of its staff, on his or her own initiative, or in response to a question from the public, asks a question for clarification, makes a brief announcement or makes a brief report on his or her own activities. (§ 54954.2(a).) In addition, any member of the body or the body as a whole, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff

to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda. (§ 54954.2(a).)

Section 54954.2 also contains specific procedures by which the agenda requirement may be avoided in other specified circumstances as well. (§ 54954.2(b).)

B. Exceptions to Agenda Requirements

The Act identifies three situations in which a body is permitted to discuss or take action on a matter at a regular meeting where the matter was not first described on a duly noticed agenda. (§ 54954.2(b).) Prior to discussing a matter which was not previously placed on an agenda, the item must be publicly identified so that interested members of the public can monitor or participate in the consideration of the item in question.

The body may discuss a nonagenda item at a regular meeting if, by majority vote, the body determines that the matter in question constitutes an emergency pursuant to section 54956.5. (§ 54954.2(b)(1).) Any discussion held pursuant to this exception must be conducted in open session, since emergency meetings held pursuant to section 54956.5 cannot be conducted in closed session.

The body may discuss an item which was not previously placed upon an agenda at a regular meeting, when the body determines that there is a need for immediate action which cannot reasonably wait for the next regularly scheduled meeting. (§ 54954.2(b)(2).) However, the Act specifies that in order to take advantage of this agenda exception, the need for immediate action must have come to the attention of the local "agency" after the agenda had already been posted. (§ 54954.2(b)(2).) The Legislature's choice of the term "agency" rather than "body" seems calculated to limit use of this exception by prohibiting its usage if the local agency, i.e. staff, and not merely the body, had knowledge of the situation requiring action prior to the posting of the agenda. Lastly, the determination that a need for immediate action exists must be made by two-thirds of the members present or, if two-thirds of the body is not present, by a unanimous vote of those remaining. (§ 54954.2(b)(2).)

Finally, where an item has been posted on an agenda for a prior meeting, the item may be continued to a subsequent meeting that is held within five days of the meeting for which the item was properly posted. Under these circumstances, the items need not be posted for the subsequent meeting. (§ 54954.2(b)(3); see also, §§ 54955-55.1 [concerning adjournment and continuances], *infra* at p. 25.)

C. Public Testimony

Every agenda for a regular meeting shall provide an opportunity for members of the public to directly address the legislative body on any item under the subject matter

jurisdiction of the body. With respect to any item which is already on the agenda, or in connection with any item which the body will consider pursuant to the exceptions contained in section 54954.2(b), the public must be given the opportunity to comment before or during the legislative body's consideration of the item. (§ 54954.3(a).) The public testimony requirement appears to apply to closed sessions as well as open meetings, but see section 11125.7(d) of the Bagley-Keene Act, concerning state bodies, which was added in 1993 to expressly provide otherwise. Accordingly, this office believes that it would be prudent for legislative bodies to afford the public an opportunity to comment on closed-session items prior to the body's adjournment into closed session. The only exception to the public testimony requirement is where a committee comprised solely of members of the legislative body has previously considered the item at a public meeting in which all members of the public were afforded the opportunity to comment on the item before or during the committee's consideration of it, so long as the item has not substantially changed since the committee's hearing. (§ 54954.3(a).)

Where a member of the public raises an issue which has not yet come before the legislative body, the item may be briefly discussed but no action may be taken at that meeting. (§ 54954.3(a).) The purpose of the discussion is to permit a member of the public to raise an issue or problem with the legislative body or to permit the legislative body to provide information to the public, provide direction to its staff, or schedule the matter for a future meeting. (§ 54954.2(a).)

The Act specifically authorizes the legislative body to adopt regulations to assist in processing comments from the public. The body may establish procedures for public comment as well as specifying reasonable time limitations on particular topics or individual speakers. So long as the body acts fairly with respect to the interest of the public and competing factions, it has great discretion in regulating the time and manner, as distinguished from the content, of testimony by interested members of the public. (§ 54954.3(b).)

When a member of the public testifies before a legislative body, the body may not prohibit the individual from criticizing the policies, procedures, programs or services of the agency or the acts or omissions of the legislative body. (§ 54954.3(c).) This provision does not confer on members of the public any privilege or protection not otherwise provided by law.

Public meetings of governmental bodies have been found to be limited public fora. As such, members of the public have broad constitutional rights to comment on any subject relating to the business of the governmental body. Any attempt to restrict the content of such speech must be narrowly tailored to effectuate a compelling state interest. Specifically, the courts found that policies that prohibited members of the public from criticizing school district employees were unconstitutional. (*Leventhal* v.

Vista Unified School Dist. (1997) 973 F.Supp. 951; *Baca* v. *Moreno Valley Unified School Dist.* (1996) 936 F.Supp. 719.) These decisions found that prohibiting critical comments was a form of viewpoint discrimination, and that such a prohibition promoted discussion artificially geared toward praising (and maintaining) the status quo, thereby foreclosing meaningful public dialogue.

In 78 Ops.Cal.Atty.Gen. 224, 230 (1995), this office opined that the body could prohibit a speaker from making comments that were outside the body's jurisdiction. However, when applying this opinion, the body must take into account the court's broad decisions as discussed above.

2. Special Meetings

Under the Act, the presiding officer or a majority of the body may call a special meeting. So long as substantive consideration of agenda items does not occur, a majority may meet without providing notice to the public in order to call the meeting and prepare the agenda. (*216 Sutter Bay Associates* v. *County of Sutter* (1997) 58 Cal.App.4th 860, 881-882.) Notice of a special meeting must be provided 24 hours in advance of the meeting to all of the legislative body members and to all media outlets who have requested notification. (§ 54956; 53 Ops.Cal.Atty.Gen. 245, 246 (1970).) The notice also must be posted at least 24 hours prior to the meeting in a location freely accessible to the public. The notice should indicate that the meeting is being called as a special meeting, and shall state the time, place, and business to be transacted at the meeting. No other business shall be considered at the special meeting. Notice is required even if the meeting is conducted in closed session, and, even if no action is taken. A member of the local body may waive failure to receive notice of the meeting by filing a written waiver prior to the meeting or by being present at the meeting.

At every special meeting, the legislative body shall provide the public with an opportunity to address the body on any item described in the notice before or during consideration of that item. (§ 54954.3(a).) The special meeting notice shall describe the public's rights to so comment. (§ 54954.3(a).)

3. Emergency Meetings

When a majority of the legislative body determines that an emergency situation exists, it may call an emergency meeting. (§ 54956.5.) The Act defines an emergency as a crippling activity, work stoppage or other activity which severely impairs public health, safety or both. (§ 54956.5(a)(1).) Absent a dire emergency, telephonic notice must be provided to all media outlets that have requested that they receive notice of any special meetings called pursuant to section 54956 at least one hour prior to the meeting. (§ 54956.5(b).) In the case of a dire emergency, notice need only be provided at or near the time that notice is provided to the members of the body. (§ 54956.5(b).) A dire emergency is a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and

significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body. (§ 54956.5(a)(2).)

In the event telephone services are not working, the notice requirements are waived, but a report must be given to media outlets as soon as possible after the meeting. Except for the 24-hour notice requirement, the provisions of section 54956 relating to special meetings apply to the conduct of emergency meetings. (§ 54956.5(d).) At the conclusion of the meeting, the minutes of the meeting, a list of persons who 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. (§ 54956.5(e).)

As a general rule, emergency meetings may not be held in closed session. However, a legislative body may meet in closed session for purposes of consulting with law enforcement or security officials under section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present. (§ 54956.5(c).)

4. Closed Sessions

There are three types of "notice" obligations that accompany the conduct of a closed-session as a part of a duly noticed meeting. First, each item to be transacted or discussed in a closed session must be briefly described on an agenda for the meeting. (§ 54954.2(a).) Second, prior to adjourning into closed session, a representative of the legislative body must orally announce the items to be discussed in closed session. (§ 54957.7(a).) This requirement may be satisfied by merely referring to the relevant portion of the written agenda for the meeting. However, the Act contains specific additional requirements for closed sessions regarding pending litigation where the body believes it is subject to a significant exposure to potential litigation. (§ 54956.9(b)(3).) Third, once the closed session has been completed, the agency must reconvene in open session, where it may be required to report votes and actions taken in closed session. (§ 54957.1.) These requirements are discussed in detail below.

A. Agenda Requirement

At least 72 hours prior to each regular meeting, legislative bodies must prepare an agenda containing a brief general description of each item to be transacted or discussed, including items which will be handled in closed session. (§ 54954.2(a).) A description of each item generally need not exceed 20 words, although the description must be sufficient to provide interested persons with an understanding of the subject matter which will be considered. *(Carlson* v. *Paradise Unified School Dist.* (1971) 18 Cal.App.3d 196, 200.) In the case of pending litigation, the legislative body must make reference in the agenda or publicly announce the specific subsection of section 54956.9 under which the closed session is being held. (§ 54956.9(c).)

In order to assist legislative bodies in preparing agendas for closed-session meetings, the Legislature enacted section 54954.5 which establishes a model format for closed-session agendas. Use of the model format is strictly voluntary on the part of the body. However, substantial compliance with the model format assures the legislative body that it will not be found in violation of the agenda requirements of section 54954.2. Substantial compliance with the model format in section 54954.5, therefore, provides a "safe harbor" from liability under the Act's agenda requirements. Substantial compliance is satisfied by including the information contained in the model format, irrespective of the form in which it is ultimately presented. (§ 54954.5.)

The model format, which comprises the safe harbor provisions, adopts a fill-in-the-blank approach. The format is well suited to placement on a personal computer where descriptive information concerning specific agenda items can be inserted as appropriate. The safe harbor provisions concerning real property negotiations are set forth below and are illustrative of the format. (All of the safe harbor provisions are contained in the appendix in § 54954.5.)

> (b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:
>
> CONFERENCE WITH REAL PROPERTY NEGOTIATORS
>
> Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)
>
> Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)
>
> Negotiating parties: (Specify name of party (not agent))
>
> Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

It is noteworthy that the closed-session provisions concerning negotiations specifically require the body to identify the individuals who will be attending the closed session as negotiators. (§§ 54956.8; 54957.6)

The safe harbor provisions concerning litigation and personnel have been tailored to protect the confidentiality interests of the agency, and employees who potentially are the subject of discipline. Thus, the safe harbor provisions require less specificity when the agenda deals with such matters.

Although the safe harbor provisions are primarily designed to fulfill the agenda requirements for regular meetings, the provisions also can be used in connection with closed sessions at special meetings called pursuant to section 54956. (§ 54954.5.)

B. Oral Announcement Prior to Closed Sessions

In addition to the agenda requirement for regular and special meetings, the Act requires a representative of the legislative body to orally announce the items to be discussed in closed session prior to any closed-session meeting. (§ 54957.7(a).) This requirement may be satisfied by referring to the item by number as it appears on the agenda.

However, such a referral usually would not be sufficient in the case of a closed session concerning significant exposure to litigation.

Pursuant to section 54956.9, a closed session may be conducted in order to permit an agency to receive advice from its legal counsel. When the impetus for such a closed session is the agency's exposure to potential litigation, the Act carefully regulates the circumstances under which a closed session may be called, and the types of announcement which must accompany such a meeting. (§ 54956.9(b)(3).) These required disclosures may be made as a part of the written agenda or as a part of the oral announcement made prior to any closed session. These requirements do not mandate disclosure of privileged communications exempt from disclosure under the Public Records Act. (§ 54956.9(b)(3)(F).) A summary of the disclosure requirements surrounding closed sessions based on an agency's exposure to potential litigation is set forth below.

- Where the agency believes that facts creating significant exposure to litigation are not known to potential plaintiffs, the facts need not be disclosed. (§ 54956.9(b)(3)(A).)

- Where facts (e.g., an accident, disaster, incident, or transaction) creating significant exposure to litigation are known to potential plaintiffs, the facts must be publicly stated on the agenda or announced. (§ 54956.9(b)(3)(B).)

- Where the agency receives a claim or other written communication threatening litigation, reference to the claim or communication must be publicly stated on the agenda or announced, and the claim or

communication must be available for public inspection pursuant to section 54957.5. (§ 54956.9(b)(3)(C).)

- Where a person makes a statement in an open and public meeting threatening litigation, reference to the statement must be publicly stated on the agenda or announced. (§ 54956.9(b)(3)(D).)

- Where a person makes a statement outside of an open and public meeting threatening litigation, the agency may not conduct a closed session unless an agency official having knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. Reference to the statement must be publicly stated on the agenda or announced, and the record must be available for public inspection pursuant to section 54957.5. However, the record, or the disclosable part thereof, need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making a threat on their behalf, or identify a public employee who is the alleged perpetrator of any such conduct, unless the identity of the person has been publicly disclosed. (§ 54956.9(b)(3)(E).)

C. Report at the Conclusion of Closed Sessions

Once a closed session has been completed, the legislative body must convene in open session. (§ 54957.7(b).) If the legislative body took final action in the closed session, the body may be required to make a report of the action taken and the vote thereon to the public at the open session. (§ 54957.1(a).) The report may be made either orally or in writing. (§ 54957.1(b).) In the case of a contract or settlement of a lawsuit, copies of the document also must be disclosed as soon as possible. (§ 54957.1(b) and (c).) If final action is contingent upon another party, the legislative body is under no obligation to release a report about the closed session. Once the other party has acted, making the decision final, the legislative body is under an obligation to respond to inquiries for information by providing a report of the action. (§ 54957.1(a).)

With respect to litigation, approval given to the body's legal counsel to defend, to seek or refrain from seeking appellate review, or to appear as amicus curiae in any case resulting from a closed-session meeting held pursuant to section 54956.9 shall be reported in open session. (§ 54957.l(a)(2).) The report shall identify the adverse parties and the substance of the litigation. Where the body has decided to initiate litigation or intervene in an existing case, the report shall indicate that fact but need not identify the action, the parties, or other particulars. The report shall specify that once the litigation or intervention has been formally commenced, the body must, upon inquiry, disclose such information, unless to do so would jeopardize service of process or existing settlement negotiations. (§ 54957.l(a)(2).)

With respect to a personnel decision, any action taken to appoint or employ an individual must be reported at the meeting. Such a report would ordinarily include the name of the individual, but the Act specifically requires that the name of the position be reported. (§ 54957.1(a)(5).) In *Gillespie* v. *San Francisco Pub. Library Comm'n* (1998) 67 Cal.App.4th 1165, a library commission met in closed session to nominate three candidates for consideration by the mayor for appointment as city librarian. Plaintiff contended that the commission was required to announce the names of the nominees at the conclusion of the closed session. The court held that the requirement to announce appointments was not applicable because the commission had merely made a recommendation, not an appointment.

With respect to a dismissal or a refusal to renew an employment contract, the report shall be deferred until the first public meeting after the exhaustion of administrative remedies.

With respect to labor negotiations conducted pursuant to section 54957.6, the approval of an agreement concluding labor negotiations shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties. (§ 54957.l(a)(6).)

No action for injury to a reputational, liberty, or other personal interest may be commenced by an employee or former employee based upon the report made by the legislative body in an attempt to comply with section 54957.1. (§ 54957.1(e).)

5. Adjournments and Continuances

Regular and special meetings may be adjourned to a future date. (§ 54955.) If the subsequent meeting is conducted within five (5) days of the original meeting, matters properly placed on the agenda for the original meeting may be considered at the subsequent meeting. (§ 54954.2(b)(3).) If the subsequent meeting is more than five (5) days from the original meeting, a new agenda must be prepared and posted pursuant to section 54954.2. Hearings continued pursuant to section 54955.1 are subject to the same procedures.

When a meeting is adjourned to a subsequent date, notice of the adjournment must be conspicuously posted on or near the door of the place where the meeting was held within 24 hours after the time of the adjournment. When less than a quorum of a body appears at a noticed meeting, the body may either meet as a committee of the parent body or adjourn to a future date pursuant to the provisions of sections 54955 or 54954.2(b)(3). If no members of the legislative body appear at a noticed meeting, the clerk may adjourn the meeting to a future date and provide notice to members of the legislative body and to the media in accordance with the special meeting notice provisions set forth in section 54956.

6. Location of Meetings

As a general rule, regular and special meetings shall be held within the boundaries of the territory over which the legislative body has jurisdiction. (§ 54954(b).) Accordingly, a city council must meet within the city; a county board of supervisors must meet within the county; and boards of directors for special districts must meet within the special district. Gatherings which are not meetings, as set forth in section 54952.2(c) (e.g., conferences, social activities, and attendance at open and public meetings held by others) are not subject to the Act, and therefore are not covered by the boundary restriction. In addition, the Act contains a number of specific exemptions from the boundary requirement. (§ 54954.) The fact that a meeting is exempt from the boundary requirement does not exempt the legislative body from the notice and open meeting requirements of the Act. A summary of the boundary exemptions is set forth below.

A legislative body must meet within its boundaries except to do any of the following:

- Comply with state or federal law or any court order. (§ 54954(b)(1).)
- Inspect real property located outside the jurisdiction or personal property which would be inconvenient to bring inside the jurisdiction. (§ 54954(b)(2).)
- Participate in meetings or discussions of multiagency significance so long as the meetings are held in the jurisdiction of one of the agencies and proper notice is provided by all bodies subject to the Act. (§ 54954(b)(3).)
- Meet in the nearest available facility if the legislative body has no meeting facility within the jurisdiction, or at the principal office of the legislative body if they are located outside the jurisdiction. (§ 54954(b)(4).)
- Meet with federal or California officials on a legislative or regulatory issue affecting the local agency and over which the state or federal officials have jurisdiction. (§ 54954(b)(5).)
- Meet in or nearby a facility owned by the local agency so long as the topic of the meeting is directly related to the facility itself. (§ 54954(b)(6).)
- Visit the office of the body's legal counsel for a closed session held on pending litigation held pursuant to section 54956.9, when to do so would reduce legal fees or costs. (§ 54954(b)(7).)

In addition to the foregoing, governing boards of school districts have the following exemptions from the requirement to meet within their boundaries:

- Attend a conference on nonadversarial collective bargaining techniques. (§ 54954(c)(1).)

- Interview a potential employee from another district or interview the public from another district about the employment of a superintendent from that district. (§ 54954(c)(2) and (c)(3).)

Joint powers agencies must meet within the jurisdiction of one of its member agencies unless an exemption contained in section 54954(b) is applicable. (§ 54954(d).) A joint powers agency with members throughout the state may meet anywhere in the state.

Where a meeting place is unsafe because of emergency circumstances, the presiding officer of the legislative body shall designate the meeting place pursuant to specified notice requirements. (§ 54954(e).)

7. Special Procedures Regarding Taxes and Assessments

Section 54954.6 establishes a series of procedures which must be followed when a legislative body proposes new or increased taxes or assessments. These procedures are in addition to the notice and open meeting requirements contained elsewhere in the Act.

CHAPTER V.

RIGHTS OF THE PUBLIC

Under the Brown Act, a member of the public can attend a meeting of a legislative body without having to register or give other information as a condition of attendance. (§ 54953.3; see also 27 Ops.Cal.Atty.Gen. 123 (1956).) If a register, questionnaire or similar document is posted or circulated at a meeting, it must clearly state that completion of the document is voluntary and not a precondition for attendance. (§ 54953.3.) A legislative body may not prohibit any person attending an open meeting from video recording, audio recording or broadcasting the proceedings, absent a reasonable finding that such activity would constitute a disruption of the proceedings. (§§ 54953.5, 54953.6; *Nevens* v. *City of Chino* (1965) 233 Cal.App.2d 775, 779; see also § 6091.)

Under the Act, the public is guaranteed the right to provide testimony at any regular or special meeting on any subject which will be considered by the legislative body before or during its consideration of the item. (§ 54954.3(a).) In 80 Ops.Cal.Atty.Gen. 247, 248-252 (1997), this office concluded under a similar provision in the Bagley-Keene Act that the public's right to comment on all agenda items

applied to quasi-judicial proceedings as well as quasi-legislative proceedings. In addition, the public has the right at every regular meeting to provide testimony on any matter under the legislative body's jurisdiction. (§ 54954.3(a).) However, this office concluded that a body could prohibit a member of the public from speaking on a matter that was outside the jurisdiction of the body. (78 Ops.Cal.Atty.Gen. 224, 230 (1995).)

The Act specifically authorizes the legislative body to adopt regulations to assist in processing comments from the public. The body may establish general procedures for public comment as well as specifying reasonable time limitations on particular topics or individual speakers. So long as the body acts fairly with respect to the interest of the public and competing factions, it has great discretion in regulating the time and manner, as distinguished from the content, of testimony by interested members of the public. (§ 54954.3(b).)

The Act provides that the legislative body shall not prohibit a member of the public from criticizing the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. (§ 54954.3(c).) Public meetings of governmental bodies have been found to be limited public fora. As such, members of the public have broad constitutional rights to comment on any subject relating to the business of the governmental body. Any attempt to restrict the content of such speech must be narrowly tailored to effectuate a compelling state interest. Specifically, the courts found that policies that prohibited members of the public from criticizing school district employees were unconstitutional. (*Leventhal* v. *Vista Unified School Dist.* (1997) 973 F.Supp. 951; *Baca* v. *Moreno Valley Unified School Dist.* (1996) 936 F.Supp. 719.) These decisions found that prohibiting critical comments was a form of viewpoint discrimination, and that such a prohibition promoted discussion artificially geared toward praising (and maintaining) the status quo, thereby foreclosing meaningful public dialogue.

Despite the public's rights to attend meetings as discussed above, a legislative body may exclude all persons who willfully cause a disruption of a meeting so that it cannot be conducted in an orderly fashion. Where removal of the disruptive persons is not sufficient to restore order, the body may clear the room of all persons. (§ 54957.9.) However, in such situations, media personnel not involved in the disturbance must be permitted to attend the session as continued. (§ 54957.9.)

Agendas or any other writings, except for records exempt from disclosure under section 6254 of the Public Records Act, distributed to all or a majority of the members of a legislative body for discussion or consideration at a public meeting are disclosable to the public upon request, and shall be made available without delay to members of the public in accordance with the provisions of section 54957.5. If materials are provided prior to a meeting, the materials should, upon request and without delay, be made available to the public upon request at the time of distribution to the body. (§ 54957.5(a).) If the materials are distributed to the members of the body by the agency at the meeting, the materials should be available to the public at that time as well. Materials provided at the meeting by a person, who is not a member of the body or employee of the local agency, must be made available by the body to the public at the conclusion of the meeting. (§ 54957.5(b).)

Members of the public who make written requests for documents which were finally approved in a closed session generally may receive copies of such documents at the conclusion of the meeting. (§ 54957.1(b).) This right to obtain documents does not include documents which are exempt from disclosure pursuant to section 6254 of the Public Records Act. (*Roberts* v. *City of Palmdale* (1993) 5 Cal.4th 363, 370-373; Cal.Atty.Gen., Indexed Letter, No. IL 77-67 (April 28, 1977).) Pursuant to section 6253(c), a fee equal to the direct cost of duplication may be charged to any person requesting a copy of a public record. (§ 54957.5(c)); *North County Parents Organization for Children with Special Needs* v. *California Department of Education* (1994) 23 Cal.App.4th 144, 147-148.) In the *North County* case, the court indicated that a pro rata share of equipment and conceivably personnel expenses directly involved in actually duplicating a record could be included in calculating the fee. However, research and retrieval costs may not be included in the fee. Thus, the direct cost of actually photocopying a record may be recovered, but associated costs such as the cost of research, redaction and retrieval may not be recovered.

In addition, members of the public may request in writing that the agenda or all of the documents comprising the meeting packet be mailed to them for a cost not to exceed the actual cost of providing the service. (§ 54954.1.) Upon receipt of such a written request, the agency shall mail the requested documents, provided that they are not exempt from disclosure pursuant to section 6254, to the requester at the time the agenda is posted or when the documents are provided to a majority of the members of the legislative body, whichever occurs first. The request must be renewed annually and failure of the requester to receive such documents does not invalidate any action which was the subject of the records.

If an agency records an open meeting either on video or audio tapes, the tapes and a tape recorder must be made available to the public if a request is made. (§ 54953.5(b).) The agency is not required to prepare a transcript, but if one were prepared, the public generally would have the right to receive copies upon request. (64 Ops.Cal.Atty.Gen. 317, 321 (1981).) If the agency wishes to destroy the tapes after 30 days, it may do so without regard to the limitations imposed by section 34090. (§ 54953.5(b).)

Except as specifically authorized by the Act, the legislative body may not impose fees to defray its costs in carrying out the provisions of the Act. (§ 54956.6.)

A legislative body may not conduct any meeting or function in any facility where racial or other discrimination is practiced, or which is inaccessible to disabled persons, or where members of the public must pay to attend the meeting. (§ 54961.) A facility is accessible if it fully satisfies the accessibility requirements of Government Code section 4450 et seq. or Health and Safety Code section 19955 et seq., as well as the federal Americans with Disabilities Act of 1990. (§ 54953.2) If a meeting facility is inaccessible, the meeting must be moved to an accessible facility.

The Act requires that agendas, agenda packets, and other writings distributed to members of a legislative body be made available in appropriate alternative formats to persons with a disability and that the agendas include information on the availability of disability-related aids or services to enable

the person to participate in the public meeting consistent with the Americans with Disabilities Act. (§§ 54954.1, 54954.2, 54957.5.) Legislative bodies may go beyond the minimal requirements of the Act and provide greater public access to their meetings. (§ 54953.7.) Elected legislative bodies may impose greater access requirements on agencies under their jurisdiction. (§ 54953.7.)

CHAPTER VI.

PERMISSIBLE CLOSED SESSIONS

1. Introduction

A. Narrow Construction

Under the Brown Act, closed sessions must be expressly authorized by explicit statutory provisions. Prior to the enactment of section 54962, the courts and this office had recognized impliedly authorized justifications for closed sessions. *(Sutter Sensible Planning, Inc.* v. *Board of Supervisors* (1981) 122 Cal.App.3d 813; *Sacramento Newspaper Guild* v. *Sacramento County Bd. of Suprs.* (1968) 263 Cal.App.2d 41.) However, that legislation made it clear that closed sessions cannot be conducted unless they are expressly authorized by statute. Although confidential communication privileges continue to exist in other statutes such as the Public Records Act and Evidence Code section 1040, these provisions no longer can impliedly authorize a closed session.

Since closed sessions are an exception to open meeting requirements, the authority for such sessions has been narrowly construed. The law evinces a strong bias in favor of open meetings, and court decisions and opinions of this office have buttressed that legislative intent. (§ 54950.) The fact that material may be sensitive, embarrassing or controversial does not justify application of a closed session unless it is authorized by some specific exception. *(Rowen* v. *Santa Clara Unified School District* (1981) 121 Cal.App.3d 231, 235.) Rather, in many circumstances these characteristics may be further evidence of the need for public scrutiny and participation in discussing such matters. (See Civ. Code, § 47(b) [regarding privileged publication of defamatory remarks in a legislative proceeding].)

In 61 Ops.Cal.Atty.Gen. 220, 226 (1978), we concluded that meetings of the Board of Police Commissioners could not, as a general proposition, be held in closed session, even though the matters to be discussed were sensitive and the commission considered their disclosure contrary to the public interest.

The Act does not contain a general exemption for quasi-judicial deliberations, and this office concluded that such an exemption was not generally authorized by implication. In 71 Ops.Cal.Atty.Gen. 96, 106 (1988), this office concluded that the deliberations of a hearing board of an air pollution control district, after it has conducted a public hearing on a variance, order of abatement or permit appeal, must be conducted in public. The opinion further stated that the board was prohibited from conducting such deliberations in a closed session with the board's counsel or the board's attorney member. Similarly, in 57 Ops.Cal.Atty.Gen. 189, 192 (1974), this office opined that county boards of education could not meet in closed session to deliberate when deciding appeals from decisions of local school boards refusing to enter into interdistrict attendance agreements.

B. Semi-Closed Meetings

In 46 Ops.Cal.Atty.Gen. 34, 35 (1965), this office also concluded that meetings could not be semi-closed. Thus, certain interested members of the public may not be admitted to a closed session while the remainder of the public is excluded. Nor would it be proper for an investigative committee of a grand jury performing its duties of investigating the county's business to be admitted to a closed session. (Cal.Atty.Gen., Indexed Letter, No. IL 70-184 (October 9, 1970).) As a general rule, closed sessions may involve only the membership of the body in question plus any additional support staff which may be required (e.g., attorney required to provide legal advice; supervisor or witnesses may be required in connection with disciplinary proceeding; labor negotiator required for consultation). Persons without an official role in the meeting should not be present.

C. Secret Ballots

Secret ballots are expressly prohibited by section 54953(c). This office has long disapproved secret ballot voting in open meetings and the casting of mail ballots. Thus, items under consideration which are not subject to a specific closed meeting exception must be conducted in a fully open forum. (68 Ops.Cal.Atty.Gen. 65 (1985).) One aspect of the public's right to scrutinize and participate in public hearings is their right to witness the decision-making process. If votes are secretly cast, the public is deprived of a portion of its right. (See also 59 Ops.Cal.Atty.Gen. 619, 621-622 (1976).) However, it is the view of this office that members of a body may cast their ballots either orally or in writing so long as the written ballots are marked and tallied in open session and the ballots are disclosable public records.

D. Confidentiality of Closed Session

Section 54963 provides that a person may not disclose confidential information that has been acquired by attending a proper closed session to a person not entitled to receive it, unless the disclosure is authorized by the legislative body.

For purposes of this section, "confidential information" means a communication made in a closed session that is specifically related to the basis for the legislative body to meet lawfully in closed session.

If this prohibition is violated, it may be enforced by relying upon current available legal remedies including the following:

- Injunctive relief to prevent the disclosure of confidential information.

- Disciplinary action against an employee who has willfully disclosed confidential information in violation of this prohibition. Such disciplinary action must be first preceded by training or notice of the prohibition.

- Referral of a member of a legislative body who has willfully disclosed confidential information to the grand jury.

However, section 54963 provides that no action may be taken against a person for any of the following:

- Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts that are necessary to establish the illegality of an action taken by a legislative body or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were ultimately to be taken by the legislative body.

- Expressing an opinion concerning the propriety or legality of actions taken by a legislative body in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

- Disclosing information acquired by being present in a closed session that is not confidential information.

- Disclosing information under the whistle blower statutes contained in Labor Code section 1102.5 or Government Code section 53296.

(See *Kleitman* v. *Superior Court* (1999) 74 Cal.App.4th 324, 335, fn. 9 [where the court found that the contents of a closed session were privileged information and applied Evidence Code 1040(b)(1), which provides an absolute privilege for confidential government information to prevent compelled disclosure in a civil proceeding]; 76 Ops.Cal.Atty.Gen. 289, 290-291 (1993); 80 Ops.Cal.Atty.Gen. 231, 235 (1997).)

2. Authorized Exceptions

All closed sessions must be conducted pursuant to expressly authorized statutory exceptions. (§ 54962.) As stated previously, the closed session exception to open meeting laws has been narrowly construed by the courts.

A. Personnel Exception

The purpose of the personnel exception is to avoid undue publicity or embarrassment for public employees and to allow full and candid discussion of such employees by the body in question. (*Fischer* v. *Los Angeles Unified School Dist.* (1999) 70 Cal.App.4th 87, 96; *San Diego Union* v. *City Council* (1983) 146 Cal.App.3d 947, 955; 61 Ops.Cal.Atty.Gen. 283, 291 (1978).) Accordingly, the Act provides for closed sessions regarding the appointment, employment, evaluation of performance, discipline or dismissal of a public employee. (§ 54957.)

In *Gillespie* v. *San Francisco Pub. Library Comm'n* (1998) 67 Cal.App.4th 1165, the Library Commission conducted a closed-session meeting to consider appointment of a new city librarian. Although the mayor actually makes the appointment, the city charter requires the Library Commission to participate in the appointment process. The court held that the Commission's closed-session meeting under the personnel exception for the purpose of nominating three candidates for consideration by the mayor was proper.

In 80 Ops.Cal.Atty.Gen. 308, 311 (1997), this office concluded that the personnel exception could be utilized by an advisory committee created by a school district to provide it with recommendations on the employment of a new superintendent after conducting interviews and deliberations on the applicants. However, a body may not conduct a closed session where it is not assigned responsibility in connection with the decision. Accordingly, this office concluded that a county board of education may not conduct a closed session on a personnel decision where that decision rested solely with the superintendent, and not with the board. (85 Ops.Cal.Atty.Gen. 77 (2002).)

Under the Act, an employee may request and require a public hearing where the purpose of the closed session is to discuss specific charges or complaints against the employee. Under the Act, the employee must be given at least 24-hour written notice

of any meeting to hear specific charges or complaints against the employee, or any action taken at the meeting will be null and void. (§ 54957.)

In *Fischer* v. *Los Angeles Unified School Dist.* (1999) 70 Cal.App.4th 87, 100, the court determined that an employee had the right to receive the 24-hour notice only when the body was considering complaints and charges brought by a third person or an employee. The court specifically distinguished these hearings concerning complaints or charges from closed-session meetings to consider the appointment, employment, evaluation of performance, discipline or dismissal of an employee. In these latter instances, the court indicated that the body need not provide 24-hour notice to the individuals in question. Thus, when complaints or charges are not pending, this office opined that the Act permits the holding of a closed session to discuss an employee's job performance irrespective of the employee's desires. (61 Ops.Cal.Atty.Gen. 283, 291(1978).) In *Duval* v. *Board of Trustees* (2001) 93 Cal.App.4th 902, 909-910, the court found that an employee evaluation could – be comprehensive or focus on specific instances of conduct; include consideration of the process to be followed in conducting the evaluation; provide feedback to the employee; and, establish goals for future performance.

In *Fischer* v. *Los Angeles Unified School Dist.* (1999) 70 Cal.App.4th 87, 101-102, the court concluded that charges or complaints brought against a person generally involve something in the nature of an accusation. An evaluation of performance conducted in the normal course of the employer's business usually does not involve communications resembling an accusation. Thus, a review of a probationary employee to determine whether permanent status will be conferred does not involve complaints or charges since no cause need be shown, no reason given and no appeal granted. Under these circumstances, the employee has no right to be present in a closed session to consider whether to grant permanent status. (See also 78 Ops.Cal.Atty.Gen. 218 (1995) [review of evaluation and denial of tenure]; *Furtado* v. *Sierra Community College* (1998) 68 Cal.App.4th 876 [review of evaluation and dismissal of nontenured employee].) These reviews of probationary teachers retain their evaluative nature even though allegations of misconduct may be a part of the evaluation. These citations are in contrast to *Bell* v. *Vista Unified School Dist.* (2000) 82 Cal.App.4th 672, where the school superintendent brought a complaint against a teacher before the school board in a context unrelated to a performance evaluation. In that case, the court found that the 24-hour notice was required.

In *Bollinger* v. *San Diego Civil Service Comm.* (1999) 71 Cal.App.4th 568, an employee was demoted. The demotion was appealed and a hearing officer conducted a hearing and prepared a report for the full reviewing body to consider in closed session. The employee contended that he should have been provided with 24-hour notice of the hearing officer's report and his right to make the hearing public. The court concluded that the body was not hearing complaints or charges, but was merely

deliberating after a proper evidentiary proceeding had been conducted by the hearing officer. The court found that the employee had the opportunity to contest or present any information during the hearing, and therefore, neither due process nor the Brown Act required that he receive notice prior to the closed session. The court found that, as a general matter, the language of the Act and the legislative history supported the conclusion that a body may deliberate in closed session after a public hearing to hear charges and complaints.

Care must be exercised to analyze the status of the individual involved in a closed session subject to the personnel exception. If the person is not an "employee," all action must be taken in public session. The Act defines the term "employee" to include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body or other independent contractors. (§ 54957.) Thus, the personnel exception not only applies to civil service employees or their equivalent, it includes department heads and other high-ranking local officers. The exception applies to such officials irrespective of whether they are appointed to an office or merely serve by contract (e.g., contract city attorney). The key issue is whether the individual functions under the normal supervision and reporting requirements for an officer or employee, as opposed to that of an independent contractor who performs a task free of such day to day constraints. Accordingly, an independent contractor who performs a study or constructs a building or project must be selected in an open session of the legislative body. (See, e.g., *Rowen* v. *Santa Clara Unified School District* (1981) 121 Cal.App.3d 231, 233 [which concluded under prior law that discussions regarding the qualifications of an independent contractor to sell surplus land for the district should have been conducted in public].)

In no case does the term "employee" include elected officers or persons appointed to fill a vacancy of an elected office. Elected officers who are separately appointed to preside over their boards are not employees within the meaning of the Act. Therefore, complaints against such presiding officers may not be discussed in a closed session. (See also 61 Ops.Cal.Atty.Gen. 10 (1978).)

The courts and this office have consistently maintained that the personnel exception must be used in connection with the consideration of a particular employee. The exemption is not available for across-the-board decisions or evaluations of employees, classifications and salary structures. In *Santa Clara Federation of Teachers* v. *Governing Board* (1981) 116 Cal.App.3d 831, 846, the court concluded that a board's consideration of a hearing officer's decision concerning teacher layoff policy must be conducted in open session.

In 63 Ops.Cal.Atty.Gen. 153 (1980), we concluded that abstract discussions concerning the creation of a new administrative position and the workload of existing positions

were inappropriate for a closed session. However, had the workload discussions involved the evaluation of the performance of specific employees, a closed session would have been proper for that portion of the discussion.

In *Lucas* v. *Board of Trustees* (1971) 18 Cal.App.3d 988, 990, the court determined that a decision not to rehire a district superintendent of a high school district was properly made in closed session. Also, in 59 Ops.Cal.Atty.Gen. 532, 536 (1976), we concluded that the use of a closed session by a school district governing board to discuss and evaluate the performance of its superintendent was appropriate. In both situations, the superintendent was found to be an "employee."

In *San Diego Union* v. *City Council* (1983) 146 Cal.App.3d 947, the court broke new ground in delineating the subjects which are appropriate for consideration in closed sessions under the personnel exception. There, the court considered whether the city council could meet in closed session to discuss the job performances and salary levels of certain employees. The court concluded that a closed session was appropriate for the purpose of reviewing an employee's job performance and making the threshold decision of whether any salary increase should be granted. However, all discussions concerning the amount of any salary increase should be held in public session.

The court specifically rejected the argument that the terms "employment" or "performance" as used in section 54957 should be interpreted to include salary level determinations. The court stated, "Salaries and other terms of compensation constitute municipal budgetary matters of substantial public interest warranting open discussion and eventual electoral public ratification." (*San Diego Union* v. *City Council* (1983) 146 Cal.App.3d 947, 955.) The court stated that although an individual's job performance could be considered in closed session, there were a variety of other factors that must be considered in determining the appropriate salary level (e.g., availability of funds; other funding priorities; relative compensation of similar positions elsewhere, both inside and outside of the jurisdiction).

The *San Diego Union* decision has now been codified in section 54957, which states, "[C]losed sessions held pursuant to this section shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline." Although the amount of any proposed increase in an employee's compensation may not be considered in closed session, the employee's job performance may be discussed in closed session, including the threshold decision of whether the employee should receive a raise.

To the extent there are bona fide negotiations between a legislative body and an unrepresented individual who is a current or prospective employee of the body, the body may meet with its representative to provide instructions on how to conduct the negotiations. (§ 54957.6.) However, if the board is merely setting the salary without

entering into bona fide negotiations, this section is inapplicable. The instructions to the negotiator may include consideration of an agency's available funds and funding priorities, insofar as such discussions relate to providing instructions to the local agency's negotiator. However, closed sessions under section 54957.6 may not include a final decision concerning an unrepresented employee's compensation.

B. Pending Litigation and the Attorney-Client Privilege

(1) Historical Background

In 1953, the Legislature enacted the Act but did not make any provisions for closed sessions in connection with litigation or the attorney-client privilege. In 1968, the court, in *Sacramento Newspaper Guild* v. *Sacramento County Bd. of Suprs.* (1968) 263 Cal.App.2d 41, 57, reasoned that the Act was not intended to impliedly repeal preexisting and well-established laws relating to privileges and confidentiality. Accordingly, the attorney-client privilege impliedly authorized closed sessions for legislative bodies to confer with their attorneys.

In 1984, the Legislature enacted SB 2216, chapter 1126, which added section 54956.9 to the Act. That section expressly authorized closed sessions in connection with pending litigation and created specific procedures and definitions for implementing these closed sessions.

In 1987, the Legislature enacted SB 200, chapter 1320, to provide that the expressly authorized exemption regarding pending litigation is the exclusive expression of the attorney-client privilege for purposes of conducting closed-session meetings. The legislation also provided that no closed session may be held unless it is expressly authorized by statute. (§ 54962.) This provision means that other confidentiality privileges may not be relied upon as implicit authorization for closed sessions.

(2) Pending Litigation Exception

The codified pending litigation exception relating to local bodies is contained in section 54956.9. This section authorizes bodies to conduct closed sessions with their legal counsel to discuss pending litigation when discussion in open session would prejudice the agency in that litigation. "Litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body, hearing officer or arbitrator. For the purpose of this section, litigation is pending when any of the following occurs: litigation to which the agency is a party has been initiated formally (§ 54956.9(a); 69 Ops.Cal.Atty.Gen. 232, 240 (1986) [issuance of tentative cease and desist order initiates an adjudicatory proceeding]; the agency has decided or is meeting to

decide whether to initiate litigation (§ 54956.9(c); or in the opinion of the legislative body on advice of its legal counsel, there is a significant exposure to litigation if matters related to specific facts and circumstances are discussed in open session (§ 54956.9(b)(1). Agencies are also authorized to meet in closed session to consider whether a significant exposure to litigation exists, based on specific facts and circumstances. (§ 54956.9(b)(2); see 71 Ops.Cal.Atty.Gen. 96, 105 (1988) [mere possibility of judicial review does not constitute significant exposure to litigation based on existing facts and circumstances].) For purposes of section 54956.9(b)(1) and (b)(2), "existing facts and circumstances" are specifically defined in section 54956.9(b)(3), along with the requirement to disclose certain information regarding the facts and circumstances prior to the holding of a closed session. (See Chapter IV, part 4(B) of this pamphlet for a description of the disclosure requirements.)

Existing facts and circumstances which create a significant exposure to litigation consist only of the following:

- The agency believes that facts creating significant exposure to litigation are not known to potential plaintiffs. (§ 54956.9(b)(3)(A).

- Facts (e.g., an accident, disaster, incident, or transaction) creating significant exposure to litigation are known to potential plaintiffs. (§ 54956.9(b)(3)(B).)

- A claim or other written communication threatening litigation is received by the agency. (§ 54956.9(b)(3)(C).)

- A person makes a statement in an open and public meeting threatening litigation. (§ 54956.9(b)(3)(D).)

- A person makes a statement outside of an open and public meeting threatening litigation, and an agency official having knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting. (§ 54956.9(b)(3)(E).)

Prior to conducting a closed session under the pending litigation exception, the body must state on the agenda or publicly announce the subdivision of section 54956.9 which authorizes the session. If litigation has already been initiated, the body must state the title of the litigation unless to do so would jeopardize service of process or settlement negotiations. (§ 54956.9(c).)

In 75 Ops.Cal.Atty.Gen. 14, 20 (1992), this office concluded that the pending litigation exception could be invoked by a body to deliberate upon or take

action concerning the settlement of litigation. The court, in *Sacramento Newspaper Guild,* stated:

> "In settlement advice, the attorney's professional task is to provide his client a frank appraisal of strength and weakness, gains and risks, hopes and fears." *(Sacramento Newspaper Guild* v. *Sacramento County Bd. of Suprs.* (1968) 263 Cal.App.2d 41, 56.)

Elaborating on this reasoning, this office's opinion concluded:

> "Unless section 54956.9 were given a strained and unnatural construction, the wording of the statute permits individual members of a legislative body not only to deliberate and exchange opinions *with counsel* but also *among themselves* in the presence of counsel. As we noted in 69 Ops.Cal.Atty.Gen. 232, 239, *supra,* the pending litigation exception fills the need to discuss confidentially with counsel 'the strength and weaknesses of the local' agency's position in the litigation. And as articulated by the court in *Sacramento Newspaper Guild, Inc., supra,* with respect to both 'settlement and avoidance of litigation,' these are 'particularly sensitive activities, whose conduct would be grossly confounded, often made impossible, by undiscriminating insistence on open lawyer-client conferences.' (263 Cal.App.2d at p. 56.)" (75 Ops.Cal.Atty.Gen. 14, 18-19 (1992).) (Original emphasis.)

The opinion went on to state that a body:

> ". . . must be able to confer with its attorney and then decide in private such matters as the upper and lower limits with respect to settlement, whether to accept a settlement or make a counter offer, or even whether to settle at all. These are matters which will depend upon the strength and weakness of the individual case as developed from conferring with counsel. A local agency of necessity must be able to decide and instruct its counsel with respect to these matters in private." (75 Ops.Cal.Atty.Gen. 14, 19-20 (1992).)

This interpretation is supported by section 54957.l(a)(3), which requires the body to disclose settlements where the body accepts a signed settlement agreement in closed session unless the agreement must be approved by another party or the court. Under the pending litigation exception, it appears that a

body generally must be a party or a potential party to litigation in order to meet in closed session with its attorney. In addition, it is possible that a legislative body may receive advice from its legal counsel concerning the body's participation in litigation as an amicus curiae, even though the language of section 54956.9 does not clearly authorize a closed session in such circumstances. (§ 54957.1.) When a government entity such as a city or a county is sued, or when government officials such as a city council or a board of supervisors are sued in their official capacities, questions may arise concerning what other city or county entities or officials may be considered parties for purposes of the pending litigation exception. 67 Ops.Cal.Atty.Gen. 111, 116-117 (1984), which was issued prior to the enactment of section 54956.9, suggests that when the county is a party to a lawsuit, an advisory body to the board of supervisors on the general subject matter of the lawsuit also may be a party or a potential party for the purposes of conducting a closed-session meeting to receive advice from its attorney.

In 69 Ops.Cal.Atty.Gen. 232 (1986), this office considered the circumstances in which a decision by one city body to meet in public on matters related to pending litigation waived the right of all other bodies of that city to conduct closed sessions concerning the same pending litigation. Our opinion concluded that one city body's decision to meet in public session regarding pending litigation is not necessarily a bar to other city bodies who wish to exercise their right to confer with their attorney in closed session. Specifically, we concluded that the city public works board did not and could not waive the city council's right to meet with its attorney in closed session.

Lastly, it should be emphasized that the purpose of the pending litigation exception is to permit a body to meet with its attorney under certain defined circumstances. If the attorney is not present (either in person or by teleconference means), the closed session may not be conducted. It should also be emphasized that the purpose of the exception is to permit the body to receive legal advice and make litigation decisions only; it is not to be used as a subterfuge to reach nonlitigation oriented policy decisions. (71 Ops.Cal.Atty.Gen. 96, 104-105 (1988).)

Since the purpose of the pending litigation exception is to protect confidential attorney-client communications, our opinion in 62 Ops.Cal.Atty.Gen. 150 (1979) continues to be applicable insofar as it concluded that nonconfidential communications between an attorney and his or her client are not protected. In that opinion, two boards which were adversaries in a lawsuit, along with their counsel, sought to meet in closed session for purposes of negotiating a settlement to that lawsuit. Thus, it was the negotiations, rather than confidential communications between the lawyer and the client, which the

bodies sought to protect. Accordingly, we concluded that a closed session was not appropriate for these negotiations.

This office also concluded that Evidence Code section 1152 (which renders inadmissible for the purpose of proving liability, evidence of the conduct or statements of a litigant during settlement negotiations) does not authorize the holding of a joint closed session between two legislative bodies, engaged in litigation against each other, for the purpose of conducting settlement negotiations. Section 1152 has as its purpose the fostering of settlements of disputes rather than the protection of confidential communications. (62 Ops.Cal.Atty.Gen. 150, 154-155 (1979).)

Settlement negotiations, however, may be conducted by the attorneys for the respective litigating bodies, and a closed session, pursuant to the pending litigation exception, may be held by each body to consult with its attorney about the settlement. (62 Ops.Cal.Atty.Gen. 150, 154-155 (1979).)

It is important to remember that the requirements of the pending litigation exception only apply to communications in the context of a meeting. Written one way confidential attorney-client advice is not a meeting, and therefore, is not subject to the Brown Act. (*Roberts* v. *City of Palmdale* (1993) 5 Cal.4th 363; see page 15 of this pamphlet.) Also, negotiations conducted by a limited term ad hoc advisory committee comprised solely of less than a quorum of the body is not subject to the Act. (See page 5 of this pamphlet.) To the extent that either of these avenues is pursued one must be careful to avoid serial communications that would constitute a violation of the Act. (See page 11 of this pamphlet.)

C. Real Property Negotiations Exception

The Act contains provisions concerning the circumstances under which a body may meet in closed session to grant authority to its negotiator concerning the price and terms of payment in real property negotiations. (§ 54956.8.) Since the Act requires the body to report, at the conclusion of the closed session, the approval of an agreement concluding real property negotiations where the body's action renders the agreement final, the body's power to grant authority to its negotiator also includes the power to finalize any agreement so negotiated. (§§ 54956.8 and 54957.1.)

The exception for real property negotiations permits the body to meet in closed session to advise its negotiator concerning the "price" and "terms of payment" in connection with the purchase, sale, lease or exchange of property by or for the agency. In *Kleitman* v. *Superior Court* (1999) 74 Cal.App.4th 324, the court indicated that the purpose for the exception arises out of the realities of the commercial market place and the need

to prevent the person with whom the local government is negotiating from sitting in on the session at which the negotiating terms are developed. (*Kleitman* v. *Superior Court* (1999) 74 Cal.App.4th 324, 331; see also *Shapiro* v. *San Diego City Council* (2002) 96 Cal.App.4th 904.)

The closed session, however, must be preceded by an open session in which the body identifies the real property in question, the individual who will act as its negotiator, and the persons with whom its negotiator may negotiate. In 73 Ops.Cal.Atty.Gen. 1, 5 (1990), this office concluded that a district interested in purchasing property could not identify 700 prospective parcels, but must specifically identify the actual parcels subject to negotiation so that the public would have the opportunity to voice any objection to the proposed transaction. Eminent domain proceedings are not subject to section 54956.8, and a body may hold closed sessions to discuss eminent domain proceedings with its attorney under the pending litigation exception.

Depending on the circumstances, the agency may designate a member of the body, a staff person, the agency's attorney or another person to serve as its negotiator.

D. Labor Negotiations Exception

The Act provides for closed sessions to enable a legislative body to meet with its negotiator concerning discussions with employee organizations and unrepresented employees regarding salaries and fringe benefits. (§ 54957.6(a).) However, prior to the closed session, the body must meet in open session and identify its negotiators. The purpose of the closed session is to permit the body to review its position and instruct its negotiator concerning the conduct of labor negotiations with current or prospective employees. During the closed session, the legislative body may approve an agreement concluding labor negotiations with its represented employees. (See § 54957.1(a)(6).) However, closed sessions with the negotiator may not include final action on the proposed compensation of one or more unrepresented employees.

The scope of the closed session held with the negotiator pursuant to section 54957.6 is limited to issues concerning salaries, salary schedules, and compensation paid in the form of fringe benefits. In addition, for represented employees, the legislative body also may grant authority to its negotiator concerning any other matter within the statutorily-provided scope of representation. Closed session discussions under the labor negotiations exception may include consideration of an agency's available funds and funding priorities, so long as such discussions relate to providing instructions to the local agency's designated negotiator. It should be emphasized that the labor negotiations exception applies only to actual bona fide labor negotiations, and a closed session may not be conducted where a legislative body merely wishes to set the salary of an employee.

The body may appoint from its membership one or more members constituting less than a quorum, to act as its negotiator, with whom it may meet and confer in closed session under the provisions of section 54957.6. (57 Ops.Cal.Atty.Gen. 209, 212 (1974).) However, if a body decides to conduct its meet-and-confer sessions itself without using a negotiator, the legislative body may not meet in closed session to review and decide upon its bargaining position. (57 Ops.Cal.Atty.Gen. 209, 212 (1974).) In addition, the legislative body as a whole may meet in closed session with a state conciliator who has intervened in the negotiations. (§ 54957.6(a); see also, 51 Ops.Cal.Atty.Gen. 201 (1968).)

For purposes of section 54957.6, the term "employee" not only refers to rank and file, but also includes an officer or an independent contractor who functions as an officer or employee. The term "employee" does not include any elected official, member of a legislative body, or other independent contractors. (§ 54957.6(b).)

E. Public Security Exception

The Act permits local agencies to meet in closed session with the Attorney General, district attorney, agency counsel, sheriff, or chief of police or their deputies, or a security consultant or a security operations manager on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities. (§ 54957.)

F. License Application Exception

The Act establishes special provisions for the consideration of license applications by persons with criminal records. (§ 54956.7.)

3. Minute Book

The Act provides for the discretionary keeping of a minute book with respect to closed sessions. (§ 54957.2.) The minute book is confidential and shall be available only to members of the legislative body or to a court in connection with litigation involving an alleged violation of the Act during a closed session. (§ 54957.2.) Neither the minute book nor the information which it memorializes may be released by the body's members. (Cal.Atty.Gen., Indexed Letter, No. IL 76-201 (October 20, 1976).) However, the minutes of an improper closed session are not confidential. (*Register Div. of Freedom Newspapers, Inc.* v. *County of Orange* (1984) 158 Cal.App.3d 893, 907-908.)

Under the Act, the recording of closed sessions is authorized by section 54957.2 only to the extent that such recording is accomplished with the knowledge or consent of the other participants in the closed session, pursuant to the requirements of Penal Code section 632. (62 Ops.Cal.Atty.Gen. 292 (1979).)

CHAPTER VII.

PENALTIES AND REMEDIES FOR VIOLATION OF THE ACT

If a person or member of the media believes a violation of open meeting laws has occurred or is about to occur, he or she may wish to contact the local body, the attorney for that body, a superior agency or the district attorney. If such contacts are not successful in resolving the concerns, the complainant may wish to consider one of the remedies or penalties provided by the Legislature to combat violations of the Act. These include criminal penalties, civil injunctive relief and the award of attorney's fees. In addition, with certain statutory exceptions, actions taken in violation of the Brown Act may be declared null and void by a court.

1. Criminal Penalties

The Act provides criminal misdemeanor penalties for certain violations. Specifically, the Act punishes attendance by a member of a body at a meeting where action is taken in violation of the Act, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled. (§ 54959.) The term "action taken" as defined by section 54952.6 includes a collective decision, commitment or promise by a majority of the members of a body. The fact that the decision is tentative rather than final does not shield participants from criminal liability; whether "action"within the meaning of the statute was taken would be a factual question in each case. (61 Ops.Cal.Atty.Gen. 283, 292-293 (1978).) Mere deliberation without the taking of some action will not trigger a criminal penalty.

2. Civil Remedies

A. Injunctive, Mandatory or Declaratory Relief

The Act provides two distinct types of civil remedies:

(1) Injunction, mandamus or declaratory relief to prevent or stop violations or threatened violations. (§ 54960.)

(2) Action to void past acts of the body. (§ 54960.1.)

These remedies are discussed in turn below.

The district attorney or any interested person also may seek injunctive, mandatory or declaratory relief in a superior court. (§ 54960.) An "interested person" may include, in addition to the public, a public entity or its officers. Unlike the criminal remedy, these civil remedies do not require that the body take action or that the members act with a specific intent to deprive the public of information to which the members know that the public is entitled.

In granting complainants the power to seek injunctive, mandatory or declaratory relief, the Legislature indicated on the face of the statute that such remedies were available to stop or prevent violations of the Act. (§ 54960.) This point was reiterated by the California Supreme Court in the case of *Regents of the University of California* v. *Superior Court* (1999) 20 Cal.4th 509, 522, where it concluded that these remedies were not available to redress the past actions of a body. However, with respect to state agencies, the Legislature quickly acted to supersede this interpretation. (See § 11130.)

A body may not always announce its intended action so as to give rise to an action for injunctive, mandatory or declaratory relief. Under these circumstances, the plaintiff may seek to support its case by demonstrating that a pattern of past conduct indicates the existence of present or future violations. (*Shapiro* v. *San Diego City Council* (2002) 96 Cal.App.4th 904; *Duval* v. *Board of Trustees* (2001) 93 Cal.App.4th 902, 906.) Alternatively, the body may seek to demonstrate that there is a current controversy that is evidenced by past practices of the body, and the body has not renunciated such practices. (*CAUSE* v. *City of San Diego* (1997) 56 Cal.App.4th 1024, 1029.) The court indicated that since the city would not admit to a violation it was likely that the current practices would continue. The court in *Common Cause* v. *Stirling* (1983) 147 Cal.App.3d 518, 524, concluded that courts may presume that a municipality will continue similar practices in light of the city attorney's refusal to admit the violation.

Where a legislative body has committed a violation of the Act concerning the conduct of closed sessions subject to the Act, a court may order the body to tape record future closed sessions pursuant to the procedures set forth in section 54960(b).

B. Voidability of Action

Either interested persons or the district attorney may seek to have actions taken in violation of the Act declared null and void by a court. (§ 54960.1.) In *Boyle* v. *City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1118, the court ruled that merely conferring with and giving direction to staff, where no vote was taken and no decision made, did not constitute action that could be adjudged null and void.

The Act specifically provides that before a suit can be initiated, the complainant must make within 90 days a written demand to the board to cure or correct the violation, unless the action was taken in an open session but in violation of section 54954.2 (agenda requirements), in which case the written demand shall be made within 30 days from the date the action was taken. (§ 54960.1(c)(1); *County of Del Norte* v. *City of Crescent City* (1999) 71 Cal.App.4th 965, 978; *Bell* v. *Vista Unified School Dist.* (2000) 82 Cal.App.4th 672, 684.) The Act further provides that if the board refuses or fails to cure or correct a violation of sections 54953, 54954.2, 54954.5, 54954.6, 54956 or 54956.5 within 30 days from receipt of the written demand, the complainant may file a suit to have the action adjudged null and void. (§ 54960.1(c)(3).) Suits under this section must be brought within 15 days after receipt of the body's decision to cure or correct, or not to cure or correct; or 15 days after the expiration of the 30-day period for the body to cure or correct -- whichever is earlier. (§ 54960.1(c)(4); see *Boyle* v. *City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1117, fn. 5.) Once an action is challenged, a body nevertheless may cure or correct that action without prejudice and, where a lawsuit has been filed, may have the suit dismissed. (§ 54960.1(e); see *Boyle* v. *City of Redondo Beach* (1999) 70 Cal.App.4th 1109; *Bell* v. *Vista Unified School Dist.* (2000) 82 Cal.App.4th 672, 685.) Since a violation may be cured or corrected after a lawsuit has been filed, the plaintiff need not wait for an answer to its demand that a body cure or correct an action before filing suit. (See *Bell* v. *Vista Unified School Dist.* (2000) 82 Cal.App.4th 672 [where the demand and the lawsuit were filed on the same day].)

Exemptions are provided in connection with decisions involving bonds, taxes and contracts on which there has been detrimental reliance. (§ 54960.1(d).) Also, actions "in substantial compliance" with the requirements of the Brown Act are exempt. (§ 54960.1(d)(1); see *County of Del Norte* v. *City of Crescent City* (1999) 71 Cal.App.4th 965, 978-979.) Persons having actual notice of matters to be considered at a meeting, within statutorily prescribed time periods in advance of a meeting, are barred from suing to have an action declared null and void. (§ 54960.1(d)(5).)

In a case concerning a similar provision of the open meeting law governing state agencies, the California Supreme Court found that the time deadlines for notification and initiation of a legal action could not be extended, even if the defendant fraudulently concealed violations of the open meeting law. The Court concluded that the time deadlines were intended to balance two conflicting policies: the desire to permit nullification of an agency's decisions on the one hand, and the need not to imperil the finality of agency decisions, on the other. Extension of the time deadlines would disturb this balance. (*Regents of the University of California* v. *Superior Court* (1999) 20 Cal.4th 509, 527.)

For a summary of the foregoing time deadlines for filing a suit to void an action taken by a body see Appendix A.

C. Attorney Fees

The Act provides for the award of attorney fees. (§ 54960.5.)

The Act provides that a plaintiff may receive attorney fees, but the award is against the agency, not the individual member or members who violated the Act. The defendant agency also may receive attorney fees when it prevails in a final determination and when the proceeding against the agency is frivolous and without merit. (*Sutter Sensible Planning, Inc.* v. *Board of Supervisors* (1981) 122 Cal.App.3d 813, 825-826; *Frazer* v. *Dixon Unified School Dist.* (1993) 18 Cal.App.4th 781, 800.)

The provision authorizing the award of attorney fees and court costs applies to both trial court and appellate court litigation. (*Boyle* v. *City* of *Redondo Beach* (1999) 70 Cal.App.4th 1109, 1121-1122; *International Longshoremen's & Warehousemen's Union* v. *Los Angeles Expert Terminal, Inc.* (1999) 69 Cal.App.4th 287, 302-304.) However, the award of fees is in the nature of a sanction and therefore, due process must be observed in the making of the award. Accordingly, the court must make written findings in order for a reviewing court to determine whether the awarding court properly exercised its discretion. (*Boyle* v. *City* of *Redondo Beach* (1999) 70 Cal.App.4th 1109.)

In *Common Cause* v. *Stirling* (1981) 119 Cal.App.3d 658, the trial court measured the petition for attorney fees under section 54960.5 against the standards established in Code of Civil Procedure section 1021.5, regarding the enforcement of an important right affecting the public interest.

Since the trial court concluded that attorney fees would not have been justified under section 1021.5, it refused to grant an award under the Act. The appellate court reversed, stating that even though recoveries would be small under normal principles, the damage was to the public integrity and, therefore, the Legislature had determined that public funds should be made available to pay for attorney fees to enforce these laws. Factors which should be considered in determining whether an award of attorney fees would be "unjust" and, therefore, should not be made, include the effect of such an award on settlement, the necessity for the lawsuit, the lack of injury to the public, the likelihood that the problem would have been solved by other means, and the likelihood that the problem would reoccur in the absence of the lawsuit.

The case was remanded to the trial court which still concluded that the plaintiff was not entitled to attorney fees. The matter once again was appealed, and the appellate court reversed the trial court a second time. (*Common Cause* v. *Stirling* (1983) 147 Cal.App.3d 518.) The court held that the plaintiff was entitled to attorney fees because it had established a legal principle on behalf of the public.

In *International Longshoremen's* & *Warehousemen's Union* v. *Los Angeles Expert Terminal, Inc*. (1999) 69 Cal.App.4th 287, 302, the court upheld an award of attorney fees because without the suit, violations of the Brown Act would have been ongoing. There, a for profit corporation claimed that it was not subject to the Brown Act. Plaintiffs demonstrated that the Act was applicable because the entity was created by a city council in order to exercise delegated governmental authority.

The award of fees may reflect market rates even though the prevailing party's attorney fees were lower. (*International Longshoremen's* & *Warehousemen's Union* v. *Los Angeles Expert Terminal, Inc.* (1999) 69 Cal.App.4th 287, 303.)

APPENDIX A

TIME DEADLINES

FOR FILING A SUIT TO VOID AN ACTION TAKEN BY A BODY

An action is taken that a district attorney or interested person believes is in violation of:

- general open meeting requirement (§ 54953)
- agenda requirements for regular meetings (§ 54954.2)
- safe harbor notice provisions for closed sessions (§ 54954.5)
- procedures for new taxes and assessments (§ 54954.6)
- requirements for special meetings (§ 54956)
- requirements for emergency meetings (§ 54956.5)

Complainant must make written demand to the body to cure or correct within:

A. 30 days of the action if it were in open session, but in violation of agenda requirements.

B. 90 days of the action in all other situations.

Once the body receives demand, it has 30 days to cure or correct the violation.

If the body fails to cure or correct within this 30-day period, interested person may file suit to void the action.

The action must be filed within 15 days of:

A. Receipt of decision to cure or correct or refusal to do so.

B. End of 30-day period to cure or correct.

APPENDIX B

THE RALPH M. BROWN ACT

CONTENTS

THE RALPH M. BROWN ACT

54950. Policy declaration

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.

54950.5. Title

This chapter shall be known as the Ralph M. Brown Act.

54951. Definition of local agency

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.

54952. Definition of legislative body

As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

54952.1. Definition of member of a legislative body

Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

54952.2. Definition of meeting

(a) As used in this chapter, "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(b) Except as authorized pursuant to Section 54953, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person.

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among

themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

54952.6. Definition of action taken

As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

54952.7. Copies of Act; Distribution

A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

54953. Open meetings required; Teleconferencing; Secret ballots

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.

54953.2. Meeting; Disability rights

All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

54953.1. Grand jury testimony by members

The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

54953.3. Conditions to attendance at meetings

A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

54953.5. Recording meetings

(a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.

54953.6. Broadcasting meetings

No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

54953.7. Greater access to meetings permitted

Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

54954. Notice of regular meetings; Boundary restrictions for all meetings

(a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of the superintendent of that district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

54954.1. Agenda information provided by mail; Fee

Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

54954.2. Agenda requirements; Regular meetings

(a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. 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. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on

his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

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

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

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

54954.3. Public's right to testify at meetings

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members 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, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

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

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

54954.4. Reimbursement of costs

(a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

54954.5. Safe harbor agenda for closed sessions

For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

54954.6. New taxes and/or assessments; Procedural requirements

(a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new

or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIIIC or XIIID of the California Constitution is not subject to the notice and hearing requirements of this section.

54955. Adjournment

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

54955.1. Continuance

Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent

meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

54956. Special meetings

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 written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means 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 or discussed. 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.

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

54956.5. Emergency meetings

(a) For purposes of this section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), 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.

(2) Each local newspaper of general circulation and radio or television station that 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, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) 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.

(e) 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.

54956.6. Fees

No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

54956.7. Closed session; License application of rehabilitated criminal

Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not

be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

54956.8. Closed session; Real property negotiations

Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

54956.86. Closed session; Health claims

Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to Section 14087.3 of the Welfare and Institutions Code may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

54956.87. Record exempt; Closed session; County health plan

(a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulae or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board

of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (c) of Section 32106 of the Health and Safety Code, shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

54956.9. Closed session; Pending litigation

Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) Litigation, to which the local agency is a party, has been initiated formally.

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(3) For purposes of paragraphs (1) and (2), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

§ 54956.95. Closed session; Insurance liability

(a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

54957. Closed session; Personnel and threat to public security

(a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security

operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b) (1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this subdivision shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

§ 54957.1. Report at conclusion of closed session

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as specified below:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in paragraph (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

54957.2. Minutes of closed session

(a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

54957.5. Agendas and other materials; Public records

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.7, or 6254.22.

(b) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(c) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

54957.6. Closed session; Labor negotiations

(a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency’s designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency’s designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

54957.7. Announcement prior to closed sessions

(a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

54957.8. Closed session; Multijurisdictional drug enforcement agency

Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional drug law enforcement agency, or an advisory body of a multijurisdictional drug law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal

investigation of the multijurisdictional drug law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

"Multijurisdictional drug law enforcement agency," for purposes of this section, means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, which provides drug law enforcement services for the parties to the joint powers agreement.

The Legislature finds and declares that this section is within the public interest, in that its provisions are necessary to prevent the impairment of ongoing law enforcement investigations, to protect witnesses and informants, and to permit the discussion of effective courses of action in particular cases.

54957.9. Disruption of meeting

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

54957.10. Closed session; Deferred Compensation Plan; Early withdrawal

Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan.

54958. Act supercedes conflicting laws

The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

54959. Violation of Act; Criminal penalty

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the

public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

54960. Violation of Act; Civil remedies

(a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session which has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency which has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency which has custody and control of the recording.

(ii) An affidavit which contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications which are protected by the attorney-client privilege.

54960.1. Violation of Act; Actions declared null and void

(a) The district attorney or 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, 54954.5, 54954.6, 54956, or 54956.5 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 district attorney or 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, 54954.5, 54954.6, 54956, or 54956.5. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c) (1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 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, 54954.5, 54954.6, 54956, and 54956.5.

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

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

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

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) 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, 54954.5, 54954.6, 54956, or 54956.5 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.

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

54960.5. Costs and attorney fees

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

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

54961. Discrimination; Disabled access; Fees for attendance; Disclosure of victims

(a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

54962. Closed session; Express authorization required

Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

54963. Closed session; Disclosure of confidential information

(a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, "confidential information" means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grandjury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in Section 1102.5 of the Labor Code or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.

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Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 89305.6 is added to the Education Code, to read:

89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

O

Assembly Bill No. 2449

CHAPTER 285

An act to amend, repeal, and add Sections 54953 and 54954.2 of the Government Code, relating to local government.

[Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act generally requires posting an agenda at least 72 hours before a regular meeting that contains a brief general description of each item of business to be transacted or discussed at the meeting, and prohibits any action or discussion from being undertaken on any item not appearing on the posted agenda. The act authorizes a legislative body to take action on items of business not appearing on the posted agenda under specified conditions. The act contains specified provisions regarding providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would revise and recast those teleconferencing provisions and, until January 1, 2026, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public if at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. Under this exception,

the bill would authorize a member to participate remotely under specified circumstances, including participating remotely for just cause or due to emergency circumstances. The emergency circumstances basis for remote participation would be contingent on a request to, and action by, the legislative body, as prescribed. The bill, until January 1, 2026, would authorize a legislative body to consider and take action on a request from a member to participate in a meeting remotely due to emergency circumstances if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The bill would define terms for purposes of these teleconferencing provisions.

This bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

SECTION 1. Section 54953 of the Government Code, as amended by Section 3 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items

during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency

exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear

remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as added by Section 4 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding

shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows

any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items

during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (f).

(D) Travel while on official business of the legislative body or another state or local agency.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(6) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(7) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(8) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(j) This section shall become operative January 1, 2024, shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 3. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2026.

SEC. 4. Section 54954.2 of the Government Code is amended to read:

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. 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 and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

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

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to

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

(4) To consider action on a request from a member to participate in a meeting remotely due to emergency circumstances, pursuant to Section 54953, if the request does not allow sufficient time to place the proposed action on the posted agenda for the meeting for which the request is made. The legislative body may approve such a request by a majority vote of the legislative body.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

(e) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

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

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. 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 and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

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

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

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

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are

also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

(e) This section shall become operative January 1, 2026.

SEC. 6. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hospital room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 7. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.

O

Robert's Rules of Order and Parliamentary Procedure

Robert's Rules of Order exists to facilitate the decision-making process at meetings. They ensure that discussion is clear, and that the rights of both the majority and the minority are protected. Below are some of the basic rules within Bob's Rules that help a meeting run more smoothly and keep discussion on track. The rules, however, are not meant to disrupt or hold-up a meeting, and may be suspended if a member is using them for those purposes.

There is provision within Robert's Rules to suspend the rules, and often at the committee level a consensus decision-making process is employed.

If any folks are really interested in the rules, a particularly good edition to purchase for personal use is: The Scott, Foresman ROBERT'S RULES OF ORDER NEWLY REVISED 1990 Edition 9th Edition, published by Scott, Foresman and Company. It's about $17.00 new in the UVic Bookstore.

Chairperson/Speaker

Each meeting is facilitated or guided by a speaker or chairperson. S/he is responsible for ensuring that the meeting runs smoothly and fairly. The chairperson remains impartial during the debate and should command the respect of all those in the room. The chairperson is not the final arbitrator of all decisions: the assembly ultimately has the authority and the responsibility to decide how the meeting should run.

Main Motion

The basis for discussion is a formal motion. The motion is put forward of being 'moved' by a voting member of the assembly to focus discussion. Each motion must have a mover and a seconder to show that it has at least a minimum of support from the delegates. Once a motion has been put 'on the floor' for discussion, debate must focus on the substance of the motion. All other discussion is out of order and not allowed. A main motion may not be introduced if there is any other motion on the floor. The mover must state the motion before speaking and motions should be written out and handed to the chair so that everyone is clear on what is being discussed.

Order

Once a motion is introduced, the chairperson will maintain a speaker's list to allow for discussion in an orderly manner. The seconder of the motion is given the right to speak immediately after the mover. To ensure that all members of the assembly have an equal opportunity to speak, the chairperson will allow speakers on the list who have not yet spoken before those who already have spoken.

Amendments

At any time, a person who has the floor can introduce an amendment to the main motion being debated. An amendment is a motion that alters, adds to, subtracts from, or completely changes the main motion. Once an amendment has been moved and seconded, debate must be on the substance of the amendment. An amendment can only be amended once. For an amendment to pass, it needs a simple majority. Once an amendment has either been passed, defeated, or withdrawn, discussion reverts back to the main motion, taking into account whether or not the amendment passed. Complex or lengthy amendments should be written out for the chairperson to be able to read back to the assembly.

Point of Order

If a member feels that the rules of order are being broken, s/he can immediately raise a 'point of order', and state what rule has been broken or not enforced by the chair. A point of order can interrupt a speaker. It cannot be used as an opportunity to get around the speakers' list - it can only be used to ask the chair to enforce the rules. The chair decides if the point is valid or not, and proceeds accordingly.

Point of Privilege

A point of privilege can interrupt the speaker. A member who feels her/his right or privileges have been infringed on may bring up this point by stating their problem. Privilege refers to anything regarding the comfort of accessibility of the member (i.e. too much smoke, too much noise, fuzzy photocopies, etc.), or to the right of the member not to be insulted, misquoted, or deliberately misinterpreted. Again, the chair decides if the point is valid or not and proceeds accordingly.

Challenge the Chair

If a member feels her/his point of order or privilege has been ruled on unfairly by the chair, s/he can challenge the chair. The chair then asks for a motion to uphold the chair, and the vote is taken. The vote decides whether the action decided upon by the chair is Valid or whether the member is correct.

Point of Information

A point of information is a QUESTION. A member may interrupt the speaker to ask her/his question, but the speaker who has the floor has the privilege to refuse the question. The chair will ask the speaker if s/he wishes to entertain a question at that time. A point of information is not an opportunity to bring forward information, jump the speakers' list, harass another speaker, or generally disrupt the proceedings - IT CAN ONLY BE A QUESTION.

Table

Debate may end in several ways. If a member feels that a decision on a motion needs to be postponed for some reason, then s/he can move to 'table' the motion. A member may not move to table a motion at the end of a speech, only at the time they are recognized by the chair. A specified time may be put on the tabling or the motion may be left indefinite. The only debate allowed is as to the length of tabling, or the time-line involved. A motion to table requires only a simple majority.

Calling the Question

If a member feels that further debate is unproductive, s/he may 'call the question', requesting the debate be ended. If there is no objection, the meeting proceeds to the main motion. If there is objection, then the meeting must vote on whether to end debate. This vote requires a two-thirds (2/3) majority to pass, and is non-debatable. If the 'call' passes, a vote on the main motion is immediately taken, without any further debate.

Rescind

A motion to rescind another motion is in order if it refers to a motion passed at another meeting on another day. This cannot be applied to actions that cannot be reversed (i.e. things that have already been carried out). This requires a two-thirds (2/3) majority to pass.

Reconsider

A motion to reconsider is applicable to a motion that was passed at the same meeting. Such a motion must be moved by someone who voted with the prevailing majority on the previous vote. It requires a two-thirds (2/3) majority to pass.

Suspension of the Rules

A motion to suspend the rules of order (so that the assembly may do something not allowed in the rules) must receive a two-thirds (2/3) majority vote, is not debatable, cannot be amended and cannot be reconsidered at the same meeting.

Adjourn

This motion takes precedence over all others, except to 'fix the time to adjourn', to which it yields. It is not debatable, it cannot be amended, nor can a vote on it be reconsidered. A motion to adjourn cannot be made when another has the floor, nor after a question has been put and the assembly is engaged in voting.

Refer or Commit

This motion is generally used to send a pending question to a committee so that the questions may be carefully investigated. This motion must be seconded and is debatable, but the debate can only extend to the desirability of committing the main motion, not to the substance of the main motion itself.

Committee of the Whole

At some point the assembly may wish to informally consider a motion or a group of motions before having to deal with them in a 'one at a time', debate fashion. Votes may be taken in committee but are not binding on the assembly unless ratified when the group re-enters the regular session. Motions are required to move in and out of committee of the whole.

Minutes

The numbering of motions always is by date, and then by when the motion arose in the meeting (YEAR/MONTH/DAY:NUMBER IN ORDER). So the fourteenth motion during the June 23, 1996 meeting would be numbered like: 96/06/23:14.

The three numbers after either a 'CARRIED,' 'DEFEATED,' or 'TIED' are arranged in a specific order. The first number indicated the number which voted in favour; the second is the number voting against; the third is the number who abstained. Thus, a decision which saw seven members in favour, four against, and two abstaining, would look like: 7 - 4 - 2.

PURPOSE

To provide guidelines for activities related to the Board of Supervisors' Agenda. Unless otherwise stated, Board of Supervisors and their staff, Board appointed staff and their deputies and staff, and County elected officials and their deputies and their staff shall comply with the procedures set forth in this policy.

BACKGROUND

The Board of Supervisors (Board) conducts County and certain special district business during its regular meetings, hearings and conferences (Board meetings). The County Charter, the Board of Supervisors Rules of Procedure, the Administrative Code, and this policy provide authority for the conduct of the Board of Supervisors meetings and related agenda processes.

The Clerk of the Board of Supervisors (Clerk) prepares Board meeting Agendas based on Board, Chief Administrative Officer (CAO), County elected officials, and County Counsel submitted letters (Board Letters). The Clerk prepares the Agenda before each Board meeting. Board Letters document proposed Board actions and provide the Clerk with the necessary information to prepare the Agenda.

Board members, the CAO and certain designees, and the County Counsel receive the Agenda, and the associated Board Letters and supporting material on or before Thursday of the week preceding the Board meeting. The Clerk distributes supporting material for "Administrative Items" upon request. Administrative Items include Proclamations, Awards, second reading of ordinances, and Communications Received.

The Board's Rules of Procedure, Rule 1 establishes the Board meeting times, dates and locations, and the Board shall annually adopt a calendar of regular meeting dates. The Tuesday portion of the meeting is the Legislative Session. The Wednesday portion of the meeting is the Land Use Session. The Legislative Session and Land Use Session shall constitute a single meeting.

The Board's Rules of Procedures set forth the detailed requirements for the Agenda and Board meeting procedures. This Board Policy provides direction on the preparation of the Agenda and Board meeting materials, including how to submit and review Board Letters, ordinances, and other informational items to be presented to the Board at its Legislative Session and Land Use Session.

AGENDA PROCESS

A. DOCKETING ITEMS FOR BOARD MEETINGS.

1. TIMELY PRESENTATION OF MATTERS ON THE REGULAR AGENDA - APPROVAL OF AGENDA AND OFF-AGENDA ITEMS

In accordance with County Code of Administrative Ordinances, Section 503, and Board Rules of Procedure, the following provides a summary of the general docket deadlines and which deadlines shall be calculated based on the Board-approved meeting calendar:

DOCKET DEADLINES

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				Deadline: 12 Noon for Land Use Session Board Letters		
	Deadline: 12 Noon for Legislative Session Board Letters				**Deadline: 8:30 a.m. Docket of Closed Session Board Letter**	
		Legislative Session Board Meeting	**Land Use Session Board Meeting**			

DOCKET DEADLINES ON HOLIDAYS

If Monday is a holiday, the docketing deadline is 12 noon on the Friday of the week preceding the Monday holiday.

If Thursday is a holiday, the docketing deadline is 12 noon on the Wednesday preceding the Thursday holiday.

Late docket exceptions are described in Rule 2 of Board of Supervisors Rules of Procedure.

CONTINUED ITEMS DEADLINES
Docketing of additional or revised information for continued items is as follows:

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			Deadline: 12 Noon for Legislative Session Board Letters	**Deadline: 12 Noon for Land Use Session Board Letters**		
		Legislative Session Board Meeting	**Land Use Session Board Meeting**			

CLOSED SESSION DOCKET DEADLINES
County Counsel shall submit the Closed Session Board Letter to the Clerk by 8:30 a.m. on the Friday preceding the Board meeting. If the Friday preceding the Board meeting is a holiday, County Counsel shall submit to the Clerk the Closed Session Board Letter by 8:30 a.m. of the last business day preceding the Friday holiday.

COUNTY CHARTER SECTION 1000.1 DISCLOSURES
The Clerk shall process County of San Diego Charter Section 1000.1 disclosures as required by the Charter. The Clerk will publicly announce supplemental disclosures before the Board considers the applicable item.

PROCLAMATIONS
Supervisors may present proclamations to recognize individuals and organizations. Supervisors may present one proclamation per Legislative Session, except that they may jointly issue one additional proclamation with another Supervisor. Supervisors shall submit proclamations to the Chair's Assistant no later than five (5) business days before the Tuesday Session. (Ref. Administrative Code Section 504.10; Board's Rules of Procedure. Rule 10.)

2. BOARD LETTERS

The Clerk shall maintain and make available templates for the Legislative Session and Land Use Session agendas, including special district agendas. The Clerk shall coordinate development of Board Letter templates in consultation with and subject to the CAO's and County Counsel's approval. The Clerk shall make available all current templates on the Clerk's Intranet Site. Board Letters shall be submitted in the form of the then-current template. The Clerk shall review Board Letters for compliance with the following guidelines. Incomplete Board Letters shall not be accepted.

A. The following information provides guidelines for certain sections of Board Letters:

1. *Recommendations*: Recommendations should be prepared in accordance with standard County language. The Board Letter Manual includes sample recommendation language. County Counsel should be consulted early in the Board Letter development process to assist in developing and reviewing the proposed recommendations.

2. *Fiscal Impact Statements*:
   i. Identify the department(s) and program(s) affected and whether current or future appropriations have been made or will be necessary to accomplish the proposal's objectives;
   ii. Identify the source of current and proposed future funding;
   iii. Identify current and future cost savings;
   iv. Address requirements of Board Policy B-29: Fees, Grants Revenue Contracts – Department Responsibility for Cost Recovery;
   v. Address increases or decreases in staff required for the program;
   vi. Any other fiscal considerations.

3. *Equity Impact Statement*: This statement shall consider equity in decisions, including policy, practices, program selection and design and budgetary decisions.

4. *Sustainability Impact Statement*: This statement shall consider overarching sustainability within decisions, which includes evaluating environmental, social, economic, and health impacts through an equity lens. This statement shall also determine how the decision or action contributes to the County's sustainability goals, as well as commitments for more sustainable internal operations.

5. *Business Impact Statement*: Identify the impact the proposed action will have on San Diego County's business community.

6. *Advisory Board Statement*: The Board has established advisory boards to advise it on areas of importance to the Board. Recommendations brought to the Board should, where possible, be presented to the appropriate advisory board prior to Board consideration, and the advisory board's input should be described.

7. *Environmental Statement*: For proposed actions that require environmental findings, such as findings required by the California Environmental Quality Act, the findings must be set forth.

8. *Linkage to the County's Strategic Plan*: This section should include a brief statement on how the proposed action aligns with the County's Strategic Plan.

9. *Single Subject:* Board Letters shall address a single subject and shall not combine multiple subjects into one letter. This requirement does not prohibit different recommendations within one Board Letter (e.g. development of policy, contracting actions, appropriations).

B. *Agenda Item Information Sheet*: A completed Agenda Item Information shall accompany each Board Letter submitted to the Clerk. The Agenda Item Information Sheet includes the information set forth below that helps provide additional administrative information about the item:
   1. Four Votes Requirement: This identifies whether the item requires greater than a majority vote of the Board. This must be checked "Yes" or "No";
   2. Charter Section 1000.1 Compliance: This must be checked "Yes" or "No";
   3. Noticed Public Hearing Requirement: This identifies items that require notice in addition to that required by the Brown Act and should not be placed on the Consent Calendar. This must be checked "Yes" or "No";
   4. CEQA Requirement: Items subject to review by the California Environmental Quality Act and any corresponding environmental document (e.g., environmental impact report, mitigated negative declaration, or negative declaration) should be identified. This must be checked "Yes" or "No";
   5. Government Code Section 84308 Requirement: Items subject to the Levine Act should be identified. This must be checked "Yes" or "No";
   6. Previous Relevant Board Actions: All previous Board actions must be identified using the following format – Date of item with the item's agenda number in parentheses, e.g. 01/01/2000 (8);
   7. Board Policies Applicable: This should list the applicable Board Policies with which compliance is required;
   8. Board Policy Statements: If an applicable Board Policy requires a statement or finding, that statement or finding must be included;
   9. Mandatory Compliance: Identify specific County actions that must be taken to comply with any applicable laws, regulations and rules;
   10. Contract Information: Provide contract numbers and Oracle information;
   11. Originating Department: This identifies the County department(s) that originated the letter, or if an elected official, the elected official's name;

12. Other Concurrences: Departments other than the originating Department that have reviewed the Board Letter;
13. Contact Person(s): Identify the person or persons most knowledgeable to answer questions about the Board Letter; and
14. Any additional requirements identified by the CAO in the Agenda Information Sheet.

C. Department Review and Timeline

1. The following department reviews are required prior to docketing a Board Letter. Board member or other County elected officials-initiated Board Letters will include as part of the review process, but not be limited to, written input on accuracy, completeness, and legality. The CAO and Clerk shall establish a department review process, based upon the general docket deadlines, to verify whether required department reviews occurred prior to docketing a Board Letter and indicate if there are any omissions, conflicts or misinformation.

    i. Office of Financial Planning;
    ii. Department(s) with the most subject matter expertise; and
    iii. County Counsel.

2. *Review Timeline*
   The CAO or their designee shall establish timelines for review of Board letters initiated by the CAO or County departments. The following timelines for review shall be adhered to for Board Letters generated by Board Members and Other County Elected Officials:

    i. Policy Direction and Routine Matters: Board Letters providing general policy direction and other routine matters, such as standard procurement, Compensation Ordinance changes, and similar actions that do not require an appropriation, must be provided to the reviewing department(s) through the CAO's Office no later than five (5) business days prior to the docket deadline.

    ii. Complex Matters, Ordinances, Resolutions and Appropriations: Board Letters involving complex matters involving implementation by two or more departments, actions requiring appropriations, or Board letters that require supporting documents, such as ordinances and resolutions, must be provided to the reviewing department through the CAO's Office no later than ten (10) business days prior to the docket deadline. Board offices and other elected officials are to notify County Counsel of any changes to resolutions or ordinances made after completion of review for which County Counsel is approving as to form and legality.

    iii. Additional Time for Review: Board member-initiated actions requiring more than eight (8) hours of department review shall be docketed to request consideration of staff review and direct the CAO to return to the Board at a

future Board meeting that provides reasonable time for review, or as otherwise recommended by the CAO.

iv. *County Counsel Opinions:* If, in the County Counsel's opinion, a proposed action presents a unique legal risk or involves unique legal issues, County Counsel will provide to the Board with a confidential analysis of the proposed action. County Counsel will also provide a confidential opinion to the Board upon the request of any Board member or the CAO. Opinion requests should be submitted at least four (4) business days before the Board considers the item.

v. *Public Review:* Where possible, the input of affected individuals and entities should be obtained prior to docketing a Board Letter.

D. *Errata and After-Docket Changes:* Changes to Board Letters and proposed recommendations shall be limited to ministerial and non-substantive changes. Any changes shall be provided in a strike-out and clean version to the Clerk who shall distribute the changes to the Board, post online, and make copies available to the public at the Board meeting. If the change substantially modifies the Board Letter or its recommendations, the Board Letter shall be continued to the next Board meeting. This requirement does not prevent Board members from amending, adding, or removing recommendations or proposing changes to ordinances or resolutions during a Board meeting. The Board member should ask for the item to be continued for additional analysis if changes involve significant changes or require additional legal analysis.

3. SIGNIFICANT ISSUES SET FOR DISCUSSION AT BOARD CONFERENCES -- CONFERENCE REPORTS

Board conferences allow the Board to fully understand and discuss complex issues in unique and complex policy areas. The Chair will determine whether and when the Board schedules a Board conference.

When setting Board of Supervisors' conferences, the Board shall allow sufficient time for staff to prepare the necessary information and reports for such conferences. Such information and reports should be submitted to the Clerk no later than 12 noon on Monday, eight days prior to the Board conference date. The Clerk shall prepare and properly notice the Board conference. (Ref. Board's Rules of Procedure, Rule 8)

4. COMMUNICATIONS RECEIVED FOR BOARD OF SUPERVISORS' OFFICIAL RECORDS

The Clerk shall prepare a list entitled, "Communications Received for Board of Supervisors' Official Records" (CR). These are documents submitted to the Board which do not require formal Board action. The CR list is placed on the Legislative session Agenda for the Board to receive and file. Any member of the Board may pull for discussion an item on the CR list. Staff of the Board member alerts the Clerk in advance to have the item pulled for discussion, for the Clerk to seek the approval of the Chair and distribute copies of the item to Board members, the CAO, and County Counsel.

The CAO shall provide routine informational reports to the Clerk. The Clerk will provide those reports to the Board as "Communications Received for Board of Supervisors' Official Records." The Board and public may request that the Board receive public comment on these items and the Board may discuss these items. Similarly, Board requested reports shall be noticed on the Legislative Session, Land Use Session or Conference Agendas.

5. CAO TO ESTABLISH ADDITIONAL PROCEDURES

The CAO, with input from the Clerk and County Counsel, may establish the necessary docketing procedures furthering this Policy and the Board's Rules of Procedure.

B. PUBLIC INPUT TO AGENDA ITEMS -- ORDER FOR LISTING HEARINGS ON BOARD OF SUPERVISORS' AGENDA

Board deliberations should be structured, where possible, to minimize inconvenience to members of the public attending Board meetings. In order to accommodate persons who may travel long distances to provide input at Board hearings, the Clerk, in consultation with the CAO shall list:

1. In descending order, those hearings set for projects in geographical area located most distant from the site of the Board of Supervisors' meeting Chamber followed by those located closer; then
2. Those hearings set for projects situated in Supervisorial District 5 first, Supervisorial District 2 next, and then Supervisorial Districts 1, 3, and 4 whenever more than one hearing is geographically located at a point approximately of equal distance from the site of the Board of Supervisors' meeting chamber, with the exception that items docketed by the Chair shall be listed first; then
3. Following the directions prescribed in 1 and 2, hearings continued from a previous date ahead of new hearings; then
4. Those hearings dealing with subjects not involving geographical location last, but if there is known large public interest, they shall be scheduled after consultation with and as directed by the Chair of the Board.

C. OTHER CLERK SUPPORT TO AGENDA PROCESS

1. PERFORMANCE OF ROUTINE RESPONSIBILITIES FOR THE BOARD OF SUPERVISORS -- EXECUTION OF DOCUMENTS
   Whenever legal and feasible, the Clerk may perform routine functions for the Board. These may include executing or facilitating the execution of documents as the Board directs.

2. OFFICIAL RECORDS
   The Clerk shall maintain in physical or electronic format, as legally and functionally appropriate, official County records including the Board's public deliberations and actions.

D. CAO REFERRALS AND REQUESTS FOR INFORMATION

The Board may make referrals to the CAO in response to public comments and Board requests for information during a noticed Board meeting. Alternatively, Board members and their staff may make similar written requests to the CAO, independent of a Board meeting. The CAO, or designated staff, will promptly respond to these requests. At the CAO's discretion, after consulting with the Chair and as appropriate County Counsel, responses requiring more than eight (8) hours may require Board direction and therefore would require an item be docketed for an upcoming Board meeting.

E. CAO BOARD MEETING ATTENDANCE

1. The CAO (or in the CAO's absence, the Assistant Chief Administrative Officer) shall personally attend the Board's Legislative Session and the Closed Session.
2. The Chief Administrative Officer may delegate the responsibility of attendance at the Land Use Session to the Deputy Chief Administrative Officer responsible for land use and related matters. The CAO shall attend the Land Use Session at the Board Chair's request, and the Board may trail any matter that requires the CAO's attendance until the CAO is able to attend the meeting.

F. CLOSED SESSIONS

County Counsel prepares, and in accordance with this Policy and the Board's Rules of Procedure, dockets and presents to the Board closed session items. County Counsel or a deputy shall attend closed session and shall prepare or cause to be prepared a complete and accurate record of closed session proceedings (closed session minutes). County Counsel shall maintain a secure record of the closed session minutes and shall only allow legally authorized individuals to review those minutes. County Counsel shall maintain or caused to be maintained a list of individuals who accessed the closed session minutes. County Counsel shall prepare, as legally required, and shall publicly read-out closed session actions from each closed session and provide a written copy of the report to each Supervisor.

Sunset Date

This policy will be reviewed for continuance by 12/31/31.

Previous Board Action
9-20-77 (7)
1-21-78 (61) to be effective 3-9-78
3-6-79 (5)
9-25-79 (14)
11-13-79 (15)
8-24-82 (20)
5-3-83 (10)
7-5-83 (81)
5-15-84 (32)
7-3-84 (9)
1-15-85 (77)
1-28-86 (89)
4-7-87 (26)
8-18-87 (14)
10-18-88 (48)
4-19-94 (38)
9/26/00 (16)
1/23/01 (26)
12/9/08 (33)
12/07/10 (27)
10/30/12 (18)
11/05/2013 (19)
11/14/17 (27)
06/08/21 (14)
08/16/22 (12)
10/08/24 (16)

CAO Reference
1. Clerk of the Board of Supervisors
2. Chief Administrative Office
3. County Counsel

Background

County government includes those standing and special boards, commissions, committees and task forces formed to advise the Board of Supervisors and County staff on issues of policy and to serve as links to the community. County committees are created as a result of State and Federal legislation, agreements with public or private agencies, and local needs.

This Board Policy is outlined as follows:

A. DEFINITIONS

B. FORMATION OF NEW COMMITTEES

C. COMMITTEE AND COMMITTEE MEMBER RESPONSIBILITIES

D. APPOINTMENTS TO COMMITTEES/VACANCIES PROCESS

E. COMMITTEE POLICIES AND PROCEDURES

F. DEFENSE OF ADVISORY COMMITTEE

G. SUNSET REVIEW OF COMMITTEES

A. DEFINITIONS:

For the purpose of this policy, COMMITTEE will be defined as:

Any board, commission, committee, council, panel, team, task force, or other similar group which is established by the Board of Supervisors to obtain advice, make recommendations on issues of policy, to make decisions, or hear and decide appeals. Committees composed wholly of County employees or members of the Board of Supervisors are not included in this definition. The Community Planning and Sponsor Groups are also not included in this definition, and are not subject to Board Policy A-74, as the policy and procedures for the establishment and operation of said groups are found in Board Policy I-1.

TASK FORCE will additionally be defined as:

A committee established by the Board of Supervisors to provide a final written report to the Board of Supervisors making recommendations, providing information or advice on a specific issue. The committee is of short-term duration, and the final

report shall contain a recommendation for dissolution of the Task Force once their designated task is completed.

B. FORMATION OF NEW COMMITTEES:

1. The Board of Supervisors shall have the authority to establish new standing and special committees. Committees may create sub-committees to perform specific tasks.

2. When a new committee is proposed, the Chief Administrative Officer shall first review to determine if any currently constituted committee would be appropriate and capable of fulfilling the duties proposed for the new committee.

3. Advisory committees shall be established by ordinance or resolution to insure the clear delineation of the committee parameters for future reference should it become necessary to provide defense or indemnification to the committee members. When a committee is created, the establishing directive shall define the purpose, responsibility of the committee, the proposed composition of committee membership, identify the nominating and appointing authorities, designate the length of terms and organizational placement, and note if committee members will receive travel expenses or compensation. A sunset review date should be noted for committees; a sunset and final report date should be noted for task forces.

4. Board letters to establish new committees shall be docketed with the Clerk of the Board in accordance with Board Policy A-72.

5. Upon formal action of the Board of Supervisors to create a new committee, the Clerk of the Board shall post a public notice of new committee positions showing vacancies.

C. COMMITTEE AND COMMITTEE MEMBER RESPONSIBILITIES:

1. Upon appointment by the Board of Supervisors, the Clerk of the Board will send to the new appointee a certificate of appointment, a copy of this Board policy, a copy of County Counsel's memorandum describing laws generally applicable to committee members, oath cards and any forms which the new appointee must file. It is the responsibility of the appointee to complete and file with the Clerk of the Board the oath cards and all other required forms prior to assuming office. It is the responsibility of the supporting department staff to ensure that newly appointed members have filed all required forms with the Clerk of the Board and have received the mandatory orientation noted in Section E.5 of this policy, prior to assuming office.

2. Members of County committees shall disclose to the Clerk of the Board of Supervisors in writing any outside employment or activity engaged in for compensation which relates to

their County duties or to the functions and responsibilities of the County department or agency which they serve or which may be subject to approval by any County officer or employee. This does not apply to committees that are purely advisory in nature.

3. No member of an advisory committee shall make, participate in making, or in any way attempt to use his/her position as a member of a committee to influence a decision in which he/she knows or has reason to know that he/she has a financial interest, except in those cases where the member is appointed to represent an entity or group having a financial interest in a matter coming within the committee's area of responsibility.

4. No person shall be appointed to or serve on a committee which participates in the making of County contracts in which such person is financially interested within the terms of Government Code section 1090 et seq. This prohibition is not applicable to persons with "remote interests" as defined in subdivision (b) of Government Code section 1091, provided that the person discloses the interest in accordance with subdivision (a) of Government Code section 1091 and the person does not influence or attempt to influence other committee members to act favorably in respect to the contract in which the person has a remote interest.

5. County committees are charged with advising the Board of Supervisors on the policies the Board establishes to guide the various functions of the County, and on the established procedures by which such functions are performed. Unless specifically designated in their establishing authority, the advisory committees are not charged with advising the Chief Administrative Officer regarding the CAO's function and responsibility to carry out the Board's policy decisions. Recognizing that this delineation of administrative authority has been established in County Charter, Section 501.9 - Non-interference, Board Policy A-98, and Board Policy A-72, requests from advisory committees which will involve response from County management staff should be in writing and signed by the Chairperson of the advisory committee. Staff responses requiring less than four (4) hours to research, prepare and submit an answer to specific requests readily obtainable should be responded to in an expeditious manner by the office or department to which addressed or assigned. More involved requests shall be discussed by the Chief Administrative Officer with the Chairperson of the Board of Supervisors and if necessary the requestor, and docketed with the Board for its direction. If the Board directs the Chief Administrative Officer to respond to the request, the Chief Administrative Officer will assign the matter to the appropriate staff within the County organization and monitor its progress to assure complete, coordinated and timely response.

6. County Committees shall be subject to the provisions of Government Code section 1098 - Confidential information; use or disclosure for pecuniary gain.

7. Committee Statement - All departmental communications to the Board of Supervisors on

new programs, program changes, contractual actions and requests for proposals (RFP's) where review of such contracts or RFP's is required under the establishing authority of the committee, or significant information about existing programs shall include a committee statement of its comments and recommendations. Proposals initiated by the Chief Administrative Office shall not be required to have a committee statement, but may seek input from the various advisory groups as deemed necessary.

8. Budget Review - committees having budget review responsibilities as a specific requirement of their establishing authority shall review the annual departmental budget and provide timely written comments to the Board of Supervisors prior to the public budget hearings.

9. Minutes - All committee meeting minutes shall be filed with the Clerk of the Board of Supervisors for the Communications Received for the Board of Supervisors Official Records and will be made publicly available.

10. Changes to Membership - The office of the Clerk of the Board of Supervisors shall be advised in writing of any changes to the membership, such as resignations, etc.

11. Travel Expenses - Members of designated committees shall be paid reasonable travel expenses for actual travel to and from their usual place of business to any committee meeting place of which they are a member and which is within the County. Members will be reimbursed at the mileage rate established in Section 472.2 of the Administrative Code.

12. Legislation - County committees are created to advise the Board of Supervisors - not the Legislature or Congress, with the exception of those committees which have been specifically mandated to advise other legislators under the government codes or laws establishing them. When a County committee wishes to make a recommendation on pending legislation to a legislative body other than the San Diego County Board of Supervisors, the committee shall submit recommendations or positions on legislation to the Department Head. The Department Head shall submit the committee recommendations to the Office of Strategy and Intergovernmental Affairs, noting the departmental position, relative to the Committee recommendations. The Office of Strategy and Intergovernmental Affairs shall inform the Board of Supervisors of the committee's recommendation or the CAO may place the committee and its recommendation on a future Board of Supervisors agenda.

    If the Board does not agree with the committee and will not forward the recommendations to the appropriate legislative body, the committee members may, as individuals, contact the legislative body recommending certain actions. Transmittal of recommendations on County letterhead without prior Board approval violates the intent

of Board Policy M-2 (Legislative Advocacy). The exception being those committees which have been specifically mandated to advise other legislators under the government codes or laws establishing them. These committees may forward their recommendations per the requirements of their mandate.

13. Evaluation and Sunset Review - A sunset evaluation will occur on a scheduled basis to determine effectiveness of committees and the need for their continued existence. The Committee will be asked to provide data on costs, benefits, committee composition and other committee information.

D. APPOINTMENTS TO COMMITTEES/VACANCIES PROCESS:

1. General Provisions:

   a. The nominating and appointing authorities in selecting appointees to committees shall seek members that have an interest, necessary expertise, time available for service, and who are representative of the County population.

   b. Membership on a County committee shall be limited to two consecutive terms. “Two consecutive terms” means two terms that are served immediately one after the other or where the person begins their second term within two (2) years of finishing their first term. After a continuous two (2) year non-membership period, a person can again be appointed to serve on the County committee for which they had previously served two consecutive terms. For the purpose of this limitation, a term shall include any appointments to fill a vacancy for one-half or more of a term. Members of a committee whose terms have expired shall continue to serve until such time as they are either replaced or reappointed. This provision does not preclude a person from being immediately eligible to serve on a different County committee. A County committee that has a two consecutive term limitation in County ordinance, Board resolution, Board policy, or its by-laws may rely on this provision for determining when an individual would be eligible for re-appointment.

   c. The Clerk of the Board shall file a monthly status report of all vacancies on County committees appointed by the Board of Supervisors with each member of the Board and shall post a copy on the Clerk of the Board’s internet website.

   d. Upon the establishment of a new committee by the Board of Supervisors or receipt of a written notice of an unscheduled vacancy on a committee, whether due to resignation, death, termination or other causes, the Clerk of the Board of Supervisors shall officially post said vacancies for public review.

   e. All unscheduled vacancies oncommittees appointed by the Board of Supervisors shall be

posted on the Clerk of the Board's internet website and other designated locations, as required by Government Code Section 54974, within 20 days after the vacancy occurs and no appointment shall be made to the position for 10 working days after posting, except on an acting basis in any emergency. New committees become unscheduled vacancies. On or before December 31st of each year, the Clerk of the Board of Supervisors shall prepare and publish an annual list of all committees appointed by the Board of Supervisors, in accordance with Government Code 59472. The list contains all appointive terms which are currently vacant and those that will expire as of December 31st of the following year.

f. Members of the public interested in serving on a County Board, Commission or Committee shall complete an application and forward to the Clerk of the Board for filing. Applications shall be maintained for a period of two years or as specified by the County's Records Retention Schedule. After the retention period, it is necessary to file a new application to be considered.

g. The Clerk of the Board of Supervisors shall place nominations for committee appointments on the regular agenda, listing all supervisorial nominations by Supervisorial District on the Administrative Agenda.

2. Nominations by Supervisors/Chairperson:

   a. The Supervisor's office shall provide a letter of nomination to the Clerk of the Board.

   b. When a board, commission or committee spans multiple districts through its geographic boundaries and the bylaws or formation regulations do not describe which Supervisorial District has the nominating authority, the Supervisor whose District has a preponderance of the population shall submit the nomination. If more than one Supervisorial District has an equal amount of the population, the Clerk of the Board shall identify a rotation for the nominations.

   c. For appointments made by the Chairperson, the Chairperson's office shall provide a letter of nomination to the Clerk of the Board.

   d. The Clerk shall review to ensure that the nomination meets appointing requirements and all appropriate postings have been conformed to, and shall place on the next agenda on the appointments Board letter.

3. Nominations by the Full Board:

a. For seats nominated by the full Board of Supervisors, the Chairperson shall request nominations from the other Supervisors, indicating a closing date for receipt of their nominations.

b. The Chairperson shall consider all nominations and provide a letter of nomination to the Clerk of the Board.

c. The Clerk shall review to ensure that the nomination meets appointing requirements and all appropriate postings have been conformed to, and shall place on the next agenda on the appointments Board letter.

4. Nominations by Other Agencies or Advisory Boards:

a. The agency or advisory board shall provide a letter of nomination to the Clerk of the Board.

b. The Clerk shall review to ensure that the nomination meets appointment requirements and all appropriate postings have been conformed to, and shall place on the next agenda on the appointments Board letter.

E. ADVISORY COMMITTEE POLICIES AND PROCEDURES:

1. Governing Rules

Conduct and operation of advisory committees is governed by this policy, and the establishing authority for the committee as well as Standing Rules of Order or By-laws adopted by the committee and approved by the Board of Supervisors. Standing Rules or By-laws supplement this and other policies and authorities but do not supersede it in any manner.

Advisory committees are advisors to County departments, the Chief Administrative Officer, and the Board of Supervisors only. Such committees are not empowered by establishing authority, ordinance, or policy to render decisions of any kind on behalf of the County of San Diego or its appointed or elected officials.

No advisory committee or any member thereof shall request any group or person to make contribution of money, goods, services or any other things of value to the committee, community, or any person or organization within the community as a condition of receiving the favorable vote of the committee member.

2. Advisory Committee Meetings

All meetings of advisory committees shall be open to the public to the extent required by the

Ralph M. Brown Act. Meetings shall be held in an accessible public place in accordance with the Ralph M. Brown Act. Agenda notices of all committee meetings shall be posted in a publicly accessible area for a period of 72 hours prior to the meeting (Special meetings require 24 hours notice). In addition, notices will be sent to the County to anyone requesting them. A fee may be charged for sending such notices.
Subcommittees may be formed to work on advisory committee business. All interested individuals are invited and urged to participate in subcommittee functions and upon appointment by the advisory committee chairperson may become voting members of the subcommittee. However, at the advisory committee meetings, only advisory committee members are eligible to vote. Secret meetings or secret ballots of the advisory committee or its subcommittees are expressly prohibited.

3. Political Activity:

   The advisory committee will not endorse, support or oppose any political activity or candidate for elective offices or any ballot measure.

4. Code of Conduct

   All members of County boards, commissions, and committees are expected to abide by the Code of Conduct in Attachment A of this policy.

5. Goals for Advisory Committees:

   Each advisory committee will prepare goals and timetables for the completion of those goals for acceptance by the Board of Supervisors. These goals shall be reflective of the advisory committee duties and responsibilities and their interaction with County departments and the Chief Administrative Officer.

6. Orientation:

   The Clerk of the Board, County Counsel, and the lead support department shall prepare an orientation packet and training for new members which includes:

   a. A copy of this Board Policy.

   b. A training on the laws, regulations, administrative codes, and/or other applicable Board policies pertaining to the operation of County advisory committees in general.

   c. A training and copy of County Counsel's memorandum regarding duties and responsibilities, the requirements of the Ralph M. Brown Act, open meetings, conflict of

interest, political practices and defense and indemnification criteria and procedures as they pertain to advisory committees;

d. A training on the County structure, departments, and Strategic Plan for participation in an advisory committee.

The supporting department staff for each advisory committee will work with the committee Chair to prepare:

e. The establishing authority, by-laws, and plans and goals of the committee.

f. Copies of the last three (3) committee minutes and recent reports prepared for committee review;

g. Information regarding the subcommittee activities for the committee, such as descriptions of subcommittees, list of subcommittee members, or other pertinent materials; and

h. A list of all current committee members, and their appointing authority, and County staff which regularly interacts or presents to the advisory committee.

This orientation shall be provided by the supporting department staff to new committee members prior to being seated as a member and available at noticed intervals no fewer than two-times per year.

7. By-laws of Advisory Committees:

Each advisory committee will prepare By-laws, which must be reviewed by County Counsel and approved by the Board of Supervisors.

By-laws of advisory committees shall contain the following sections and information (exceptions may be made to cover unique situations).

Article 1 – Purpose and Authority

Section A - Indicate the establishing authority for the committee such as State Code, Ordinance, (County Administrative Code Article, Section), Board Resolution dated, Board Order dated, or Joint Powers Agreement dated.

Section B - The purpose of the group as set forth in the establishing authority or reference the section of the Administrative Code.

Section C - The advisory committee is a non-partisan, non-sectarian, non-profit making organization. It does not take part officially in, nor does it lend its influence to any political issues.

Section D - Advisory committees are advisory to <list department(s)>, the Chief Administrative Officer and the Board of Supervisors only. The advisory committee is not empowered by ordinance, establishing authority or policy to render a decision of any kind on behalf of the County of San Diego or its appointed or elected officials.

Article 2 - Membership and Term of Office

Section A - Membership as set forth in the establishing authority or by referencing the Administrative Code Section.

Section B - The advisory committee is limited to <number> members in accordance with the establishing authority.

Section C - Term of office as set forth in the establishing authority.

Section D - Method for filling vacancies as set forth in the establishing authority, including designating the specific nominating entity, such as the Supervisorial District Supervisor, or other authority.

Article 3 - Duties

Outline the duties of the advisory committee as set forth in the establishing authority, or by referencing the Administrative Code Section.

Article 4 - Officers

Section A - The election of officers is a responsibility of the advisory committee membership and is governed in accordance with the establishing authority. If not addressed in the establishing authority, the following Sections B through F are in force.

Section B - The advisory committee annually elects from its members the following officers: Chairperson and Vice-Chairperson (Co-officers may be elected, if deemed necessary). A Secretary may be elected if none is otherwise available to the advisory committee.

Section C - If an office is vacated, the Chairperson will temporarily appoint a member of the

advisory committee to fill the vacancy until a new officer is elected. Such election shall be held within 30 days of the vacancy.

Section D - The Chairperson provides general supervisory guidance to the advisory committee and presides over its meetings. The Chairperson assigns coordinating duties to the Vice Chairperson as necessary. The Chairperson is the sole official spokesperson for the advisory committee unless this responsibility is delegated in writing.

Section E - In the absence of the Chairperson, the Vice Chairperson assumes the duties and responsibilities of that office.

Section F - The Secretary, or assigned staff, records the minutes of all advisory committee meetings and handles committee correspondence. The Secretary keeps the roll, certifies the presence of a quorum, maintains a list of all active representatives, and keeps records of actions as they occur at each meeting. It is the responsibility of the County staff assigned to the advisory committee to assure that posting of meeting notices in a publicly accessible place for 72 hours prior to the committee meeting occurs, to keep a record of such posting, and to reproduce and distribute the advisory committee notices and minutes of all meetings.

Article 5 - Subcommittees

Section A - If formation of subcommittees is not addressed in the advisory committee establishing authority, then the following Sections II through V are in force.

Section B - The advisory committee may select from its membership, subcommittee chairpersons and/or members to direct studies, conduct research or make recommendations on committee activities.

Section C - The purpose and scope of each subcommittee shall be outlined in writing.

Section D - Each subcommittee chairperson shall be responsible for the keeping of records of all actions and reports of the subcommittee, and shall submit these actions and reports to the advisory committee on a regular basis. A subcommittee chairperson shall not act as spokesperson for the advisory committee unless authorized to do so in writing as set forth in Article 4, Section D, of these By-laws.

Section E - A coordinating committee comprised of the chairpersons of the subcommittees may be formed to assemble information from each subcommittee for presentation to the advisory committee. The Chairperson or Vice-Chairperson shall act as the chairperson of the coordinating committee.

Article 6 - Organization Procedures

Section A - Robert's Rules of Order govern the operation of the advisory committee in all cases not covered by these by-laws. The advisory committee may formulate specific procedural rules of order to govern the conduct of its meetings.

Section B - Any group voting is on the basis of one vote per person and no proxy, telephone or absentee voting is permitted.

Section C - All meetings of the advisory committee and its subcommittee are open to the public to the extent required by the Ralph M. Brown Act. Meetings are to be held in accessible, public places. Notice of all advisory committee meetings shall be posted in a publicly accessible place for a period of 72 hours prior to the meeting (Special meetings require 24 hour notice). In addition, such notice will be mailed on request.

Section D - If a quorum is not defined by the establishing authority, a majority of the members currently appointed shall constitute a quorum. No vote of advisory committee shall be considered as reflecting an official position of the advisory committee unless passed by a majority of its quorum present at the specific meeting where the vote was taken.

F. DEFENSE OF ADVISORY COMMITTEE:

1. Committee members qualifying as employees or servants of San Diego County:

   The members of advisory committees qualify as employees or servants of the County of San Diego, if they meet the following criteria.

   A. The advisory committee was established by an ordinance, resolution or other order of the Board of Supervisors.

   B. The membership of the advisory committee is identifiable.

   C. The member was appointed as a representative of the County by the Board of Supervisors; or the member was appointed pursuant to an ordinance, resolution or order of the Board of Supervisors which provides for his/her appointment by some other County official or other person or entity

   D. The powers, duties, purposes or functions are established by the Board of Supervisors or under the authority of the Board of Supervisors.

   E. The powers, duties, purposes or functions require the member to perform specified services for the County, such as representing the County or investigating, examining,

reporting and recommending on issues to the County, and these powers and duties place them under the control of the Board of Supervisors, or someone delegated by the Board of Supervisors, or if the services are not specified, the Board of Supervisors or a County official designated by the Board of Supervisors can direct them to provide a specific purpose for the County.

F. Sub-committees of the advisory committees will not be covered for defense and indemnification as a general rule. Those advisory committees requesting such coverage for specific sub-committees will request this by Board letter, accompanied by by-laws revisions which designate the sub-committees in question as standing sub-committees, stipulate the membership, and the scope of the responsibilities of such sub-committees. On Board action, these sub-committees shall then be covered under this Board Policy for defense and indemnification.
A member of an advisory committee shall be entitled to defense and indemnification in civil actions brought against that member for injury resulting from acts or omissions within the scope of employment, to the same extent as authorized for County employees.

2. Indemnification Policy:

It is the policy of the Board of Supervisors:

A. To defend and indemnify, in the manner authorized for defense and indemnification of County employees under Division 3.6 (commencing at Section 810) of Title I of the Government Code, any member of a County advisory committee meeting the criteria set forth above, against any claim or injury resulting from acts or omissions within the scope of employment, if in addition the following circumstances exist:

1. The alleged act or omission occurred during a lawful meeting of the recognized advisory committee or at a lawful meeting of a sub-committee appointed by the advisory committee at a lawful meeting and required to report action back to the advisory committee at a lawful meeting.

2. The alleged act or omission was within the reasonable scope of duties of the advisory committee as described within the establishing authority for that advisory committee including this Board Policy and was not in violation of any of the provisions of the establishing authority, this policy, or the regularly adopted by-laws of the advisory committee.

3. The member has reviewed the orientation materials noted in Section E.5 of this policy prior to the alleged act or omission.

4. The member has made a request in writing to County Counsel for defense and indemnification within five (5) working days of having been served with legal papers.

5. The member has performed his/her duties in good faith with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

It should be recognized that, under Division 3.6 (commencing at Section 810) of Title 1 of the Government Code, and as authorized therein, among other things, the County of San Diego may decline to represent a member of a advisory committee who would otherwise be entitled to defense and indemnification under this policy if:

6. The member does not reasonably cooperate in good faith with County Counsel in the defense of the claim for action.

7. The members acted or failed to act because of fraud, corruption, actual malice or bad faith.

8. The member is part of an advisory committee which does not meet the criteria for qualification as a "public employee."

B. In the event County Counsel determines that a member of a advisory committee is not entitled to or should not receive a defense and indemnification under this policy, the County Counsel will promptly advise the advisory group member and either the Supervisor who nominated the member for appointment or the Chairperson of the Board and the Supervisors in whose district the member resides, if the member was nominated/appointed by other than a member of the Board of Supervisors. It will be the responsibility of the Supervisor to bring the matter before the Board for further consideration.

C. Nothing in this policy authorizes the County of San Diego:

1. To pay any part of a claim or judgement as is for punitive or exemplary damages.

2. To take any action not authorized by law.

D. This policy applies only to County advisory committees authorized and/or recognized by the Board of Supervisors, and under this Board Policy, and to County of San Diego representatives on advisory committees for other jurisdictions.

G. SUNSET REVIEW OF COMMITTEES

1. Sunset Reviews:

   Sunset review dates shall be applied to all advisory committees which are formed by the Board of Supervisors by Federal or State mandate, County Ordinance, Joint Powers Agreement, Regulatory Code, Board Order or Action, or Board Resolution.

2. Exceptions:

   Those advisory committees, such as Task Forces, where a discontinuance date is included in the establishing authority, and this date is within four (4) calendar years of the establishment of such a committee, shall not be subject to sunset review under this policy.

3. Schedule of Sunset Reviews:

   Each fiscal year, the Clerk of the Board shall schedule one fourth of the active advisory committees for review.

4. Sunset Review Process:

   a. The Clerk of the Board shall notify committees scheduled for review by July 1.

   b. The advisory committee shall, by December 1 of that same year, review establishing ordinance, policy, or resolution as scheduled; develop recommendations for continuance, deletion or revisions and provide a written report to the Clerk of the Board of Supervisors. This shall include the following:

      1. An evaluation of the committee's level of involvement in County programs relative to the duties and responsibilities defined in their establishing authority, actions accomplished or completed on issues assigned to the committee by the Board of Supervisors, and/or status of goals set by the committee;

      2. Diversity assessment of appointees compared to the demographics of County residents or to the populations they serve;

      3. Review of language accessibility for attendees and potential applicants;

      4. Review of the efforts to ensure transparency of meeting proceedings;

      5. Review of staff time required to facilitate agendas and staff meetings, compared with time allotted, to ensure staff time is sufficient to support the operation of each committee;

6. Justification for continuance (if recommended), with appropriate goals and timetables for the term on continuance;

7. Budget analysis of the County cost and the benefit to the County of the committee;

8. Review of the designated appointing authority for appropriateness and clarity, citation of the appropriate government codes mandating the committee and its activities (where applicable), and develop an ordinance establishing the committee within the County Administrative Code in those cases where the committee is not currently a part of the Administrative Code.

c. The Clerk of the Board will package all committee responses and provide copies to each member of the Board, the Chief Administrative Officer and Communications Received for Board of Supervisors Official Records.

d. The Chief Administrative Officer will review committee responses, receive input from appropriate departments and agencies and docket CAO recommended changes for the Board of Supervisors consideration before or during the next scheduled budget deliberations.

Attachment A: Code of Conduct

Sunset Date: This policy will be reviewed for continuance by 12-31-2031.

Previous Board Action: This policy is a consolidation of previous Board Policies A-74, A-74a, A-74b, A-74c, A-74d, A-74e, and A-74f.

BOARD ACTION:
12/8/98 (24)
05/11/04 (04)
12/09/08 (33)
10/28/14 (21)
12/08/20 (25)
05/24/22 (10)
09/27/2022 (17)
10/08/2024 (16)

CAO Reference:
1. Clerk of the Board of Supervisors

Attachment A

Proposed Code of Conduct for County of San Diego
Boards, Commissions, Committees, Planning and Sponsor Groups

Preamble: *The County of San Diego's (County's) wide range of boards, commissions, committees, and planning and sponsor groups serve a critical role as a mechanism for civic engagement. While no single code of conduct can address the varied board, commission, committee and planning and sponsor group circumstances, the purpose of this universal Code of Conduct is to create standards and expectations of conduct that align with the County's values and the "Code of Civil Discourse" from the National Conflict Resolution Center as adopted by the County's Board of Supervisors.*

All members of County boards, commissions, committees and planning and sponsor groups are expected to abide by this Code of Conduct.

By our conduct, we create an environment in which we adhere to and pledge to uphold the following values:

- We acknowledge that the principal function of County of San Diego boards, commissions, committees and planning and sponsor groups (or representatives) is public service, and we therefore commit to serving the public interest and promoting the greatest public good.
- We recognize that our actions impact the community's trust in the County and government as a whole and commit to act with honesty and integrity.
- We commit to vigilance in avoiding bias or conflict of interest whether they be real or perceived, acknowledging that even the perception of such corrodes public trust.
- We commit to fairness, impartiality, active listening, and consideration of all points of view by setting aside our personal agendas, affiliations, and biases. We make informed decisions after carefully weighing relevant data and assessing the merits and possible impacts.
- We recognize that diversity is a strength and commit to promoting an inclusive and welcoming culture at public meetings and with each other to foster participation and representation across all our varied communities.
- We practice civility by fostering a professional environment of courteous, respectful, and equitable treatment of our fellow members, elected officials, County staff and the residents we serve, through our words and actions whether we agree or disagree.
- We are committed to fostering an environment free from violence, discrimination, intimidation, or harassment of any kind.
- We are committed to transparency, access to information, and promoting broad public engagement.
- We will respect and comply with all applicable laws, regulations, and County policies including Board of Supervisors' Policy A-74, "Participation in County Boards, Commissions and Committees," the County's Code of Ethics, the Political Reform Act, and the Ralph M. Brown Act.

Each individual board, commission, committee or planning and sponsor group may adopt additional standards of conduct based on specific needs. Any code of conduct violations should be addressed according to the bylaws adopted by that board, commission, committee or planning and sponsor group.

Purpose

To adopt an administrative procedure authorized under Government Code section 53297 relating to allegations by County Employees or Applicants of Improper County Government Activities. This procedure shall be for the express purpose of investigating complaints alleging Improper County Government Activities; however, such procedure shall not supersede or replace, and shall not be an alternative to, other procedures under the County's Civil Service Rules, Memoranda of Agreement, or other County rules and regulations, including those of the San Diego County Grand Jury, which provides procedures for Employees who file complaints, grievances, or claims pursuant to their provisions.

Background

The County is dedicated to creating a government that earns the public's support and respect by being responsive and responsible in carrying out its public-service mission. Accordingly, the County is committed to taking a proactive approach to promoting an ethical workplace and to managing ethics, compliance, and conduct-related issues. Critical to managing these issues are procedures for addressing allegations of wrongdoing by County Employees and for protecting Employees against reprisals if they file complaints of misconduct as outlined in these complaint procedures.

For information on discrimination complaint procedures see Departmental Employee Discrimination Complaint Procedure, Administrative Manual Item Number 0010-13; Discrimination Complaint Procedure (Internal), Administrative Manual Item No. 0010-11; Discrimination Complaint Procedure (External), Administrative Manual Item No. 0010-12; Civil Service Rule VI – Discrimination Complaints; and/or County Grievance Procedures.

Policy

County employees hold positions of public trust and share a mutual commitment to ethics in the workplace. Each County employee is expected to uphold the highest standards of conduct in the performance of his or her duties that are consistent with the County's core values, the Statement of Ethical and Legal Standards, and all applicable laws and regulations. All Employees are encouraged to make good faith reports of suspected Improper County Government Activity within the County of San Diego.

The Improper County Government Activity Complaint Procedure is intended to be used for reporting serious and sensitive issues. The Office of Internal Affairs will review all filed complaints and where deemed necessary will conduct a formal Investigation pursuant to all legal and regulatory requirements and in conformance with applicable County policies and procedures.

Definitions

For purposes of this procedure, the following definitions shall apply:

1. "Abuse of authority" means the willful exercise of authority for improper or wrongful

purposes.

2. "Applicant" means any person whose name, at the time of filing a complaint pursuant to this procedure, is on a current eligibility list maintained by the Department of Human Resources and is filing a complaint regarding the application process.

3. “Appointing Authority” means officers and department heads with the authority to appoint and dismiss employees.

4. “Complainant” means an Employee or Applicant who files a complaint charging Improper County Government Activity.

5. "Department" means any County of San Diego department, office, board, agency, or commission.

6. “Employee” means any person who at the time of filing a complaint pursuant to this procedure is employed by the County of San Diego.

7. "Gross Mismanagement" means the failure to exercise even a substandard level of performance relating to the management of County programs, activities, functions, services and responsibilities.

8. "Improper County Government Activity" means any activity, conduct, or act by a County Department, officer (elected or appointed) or employee relating to the performance of official County functions, duties or responsibilities, and which involves:

    a. Gross Mismanagement,

    b. a significant waste of funds,

    c. an Abuse of authority, or

    d. a substantial and specific danger to public health and safety.

9. “Investigation” means the systematic inquiry into the allegations of the complaint by the Office of Internal Affairs. Such investigation may include, but is not limited to, visits to the Respondent’s place of business, interviewing of witnesses, review of requested records and the issuance of questionnaires to the Respondent concerning the alleged Improper County Government Activity.

10. “Investigator” means the Office of Internal Affairs staff member investigating alleged Improper County Government Activities.

11. “Party” or “Parties” means the Complainant and/or Respondent.

12. “Probable Cause” means a high probability that the charge of Improper County Government Activity is true.

13. “Respondent” means the Department of the County of San Diego against which a

complaint has been filed, or the employee or agent against whom a complaint has been filed.

Procedure

1. Who May File Complaints

   A. General: An Employee of the County of San Diego or an Applicant for County employment shall have the right to file a complaint with the Office of Internal Affairs under the authority of the Chief Administrative Officer.

   B. Any complaint alleging Improper County Government Activity against the Office of Internal Affairs or the Chief Administrative Office will be filed with the Office of County Counsel, Room 355, 1600 Pacific Highway, San Diego, California 92101. The Office of County Counsel will then determine who will perform the duties prescribed by this procedure.

2. Jurisdiction Information

   No complaint shall be filed pursuant to this procedure if the subject matter of the complaint is within the jurisdiction of one of the following bodies or procedures:

   A. the Civil Service Commission,

   B. the Citizens Law Enforcement Review Board,

   C. the San Diego County Grand Jury,

   D. the County Grievance Procedures contained in the County Board Policy Manual or Memoranda of Agreement with recognized employee organizations, or

   E. other legally required administrative procedure, the purpose of which is to provide an opportunity for review of the complaint.

   However, if any such body or the persons administering such procedures refuse or decline to assume jurisdiction over the matter complained of, the Employee or Applicant may file a complaint with the Office of Internal Affairs under this procedure. The 60-day time limit specified in the section titled “Procedure” (subsection 7), shall be extended by the amount of time between the filing with the body or bodies, or under the grievance procedure, and the date of notification of the refusal or declination to assume jurisdiction over the matter.

3. Exhaustion of Administrative Remedies

   No complaint shall be filed pursuant to this procedure unless the Complainant first makes a good faith effort to exhaust all available administrative remedies, exclusive of those specified in the section titled “Procedure” (subsection 2). The 60-day time limit specified in the section titled “Procedure” (subsection 7) shall be extended by the amount of time actually utilized by the Employee in pursuing available administrative

remedies, subject to the following provisions:

A. "Available administrative remedies" means administrative determinations by County authorized officials which are rendered pursuant to a written official County or County Department administrative procedure where such procedure authorizes a remedy for the type of allegations included in the complaint.

B. For the 60-day time limit to be extended by the amount of time actually utilized by the Employee in pursuing available administrative remedies, the Employee must describe briefly the administrative remedies pursued, if any, and the dates during which the administrative remedies were pursued and/or exhausted.

4. Office of Internal Affairs Forms

A. The Complaint shall be written (typed or printed) on a form prescribed by the Office of Internal Affairs, and must set forth each allegation relating to Improper County Government Activities.

B. Complaints must be submitted in writing and signed by the Complainant. Complaints that are not signed under penalty of perjury shall be returned to the Complainant and shall not be acted upon by the Office of Internal Affairs.

5. Contents

Complaints must contain the following:

A. The full name and address of the Party or Parties reporting Improper County Government Activity (Complainant);

B. The full name and work address of Party or Parties alleged to have committed the Improper County Government Activity;

C. A short and plain statement of the facts, including particulars, which describe the alleged Improper County Government Activity;

D. The date or dates the alleged Improper County Government Activity occurred;

E. Each allegation relating to Improper County Government Activities.

F. A statement of whether any other action, either civil or criminal, has been filed in any other forum or agency based upon the same facts alleged in the complaint, together with a statement as to the status of the action or final outcome.

6. Place of Filing

Complaints must be filed at:

Office of Internal Affairs
County of San Diego
1600 Pacific Highway, Room 400
San Diego, California 92101-2472

7. Time Limits on Filing

   Complaints must be filed within sixty (60) calendar days of the date the Employee or Applicant first had knowledge of the alleged Improper County Government Activity which is the subject of the complaint.

8. Manner of Filing

   A. Complaints must be filed with the Office of Internal Affairs either by personal delivery, U.S. Mail, County inter-office mail, or electronic mail (signed and scanned).

   B. The complaint will be deemed filed as of the date of receipt.

      The Office of Internal Affairs will, upon receipt of the complaint, provide a copy to the Respondent by personal delivery or by mail within five (5) working days.

9. Office of Internal Affairs Duties

   A. The Office of Internal Affairs shall receive, review and investigate complaints which are properly filed and which allege Improper County Government Activity, except for complaints referred to:

      1) other investigatory bodies pursuant to subsection 9. (E) of this section, or

      2) Department heads pursuant to subsection 9. (G) of this section.

   B. The Office of Internal Affairs shall also review and Investigate matters under this procedure as directed by the Chief Administrative Officer. The Office of Internal Affairs shall not investigate:

      1) complaints which are not properly filed,

      2) complaints, or any allegations within complaints, which on their face clearly indicate that the alleged Improper County Government Activity was a proper activity, or

      3) complaints, or any allegations within complaints, which are within the jurisdiction of the investigative bodies or procedures indicated in subsection 2 of the section titled “Procedure”, unless such bodies or persons administering such procedures refuse or decline to assume jurisdiction over the matter.

   C. The Office of Internal Affairs shall refer the Complainant to the appropriate investigative bodies or responsible officials to file a complaint according to their respective procedures.

   D. After a complaint is filed and the Office of Internal Affairs has determined to accept the complaint for Investigation, notice of the filing of the complaint shall be sent to the Department head of the Department which is the subject of the

alleged Improper County Government Activity.

E. Notwithstanding any other provision under this procedure, the Office of Internal Affairs may refer complaints within its jurisdiction to other County Departments for investigation, or to appropriate law enforcement agencies for criminal investigation. The County Department shall investigate the matter pursuant to the request of the Office of Internal Affairs, and shall provide the Office of Internal Affairs a report including conclusions, supported by findings of fact, on whether the alleged Improper County Government Activity indicated in the complaint occurred. The Office of Internal Affairs will consider the report submitted by the County Department for purposes of completing the report to the Chief Administrative Officer. Any information obtained by the Office of Internal Affairs pursuant to an Investigation of a complaint which is referred out, shall be provided to the investigatory body to which it is referred to the extent permitted by law.

F. The Office of Internal Affairs will prepare reports for the Chief Administrative Officer on the results of any Investigations conducted with respect to complaints filed. The reports shall be advisory and shall include conclusions, supported by findings of fact, on whether the alleged Improper County Government Activity indicated in the complaint occurred. The Office of Internal Affairs shall inform the Complainant of the conclusions set forth in the Investigation report.

G. Notwithstanding any other provision under this procedure, the Office of Internal Affairs, after reviewing the complaint, may contact the responsible Department head prior to commencing an Investigation for the purpose of attempting to resolve the allegations in the complaint. If, in the discretion of the Office of Internal Affairs, the allegations in the complaint are resolved within a reasonable period of time (not exceeding one month from the time the Department head was contacted), the complaint shall not be investigated. If the allegations are not resolved, the Investigation shall continue according to this procedure.

10. Withdrawal

A. Complainants may withdraw the complaint, amendments thereto, or supplemental complaints, at any time.

B. Withdrawal requests must be submitted to the Office of Internal Affairs in writing, signed and filed in the same manner as provided for in the filing of the original complaint. Withdrawal will be effective when filed, thereby terminating the complaint. Notice of termination will be sent by mail or personal delivery to the Respondent and the Complainant.

11. Investigation, Dismissal and Conciliation

A. Investigation

1) After the filing of a complaint, the assigned Internal Affairs Investigator will

conduct an Investigation to determine whether Probable Cause exists for the allegation(s) in the complaint.

2) The Investigator will determine the witnesses, if any, to be interviewed. If there is a need for witness testimony from Employees of the Respondent, the Respondent must allow the Investigator to schedule reasonable Employee interviews. The Investigator exercises sole authority as to who will be present during the interview. Interviews will be conducted in private and will be deemed confidential, in accord with the Disclosure provisions in subsection 11. (D).

3) All Employees are expected to cooperate with the Office of Internal Affairs during the investigative process.

4) The Investigation will be completed within 60 days after the complaint has been filed unless the Office of Internal Affairs grants an extension due to extenuating circumstances.

B. No Probable Cause Determination

1) If the Office of Internal Affairs, upon submission of the investigative findings, concludes that there is no Probable Cause to believe that Improper County Government Activity occurred, the following actions may be taken:

a) Schedule debrief with the Department to discuss recommendations regarding other findings outside of the complaint.

b) Send a letter to the Complainant and Department indicating the findings of the Investigation.

2) Dismissal

If the Office of Internal Affairs determines either upon the face of the complaint or upon the investigative findings, that Probable Cause supporting the allegation(s) in a complaint does not exist, the complaint will be dismissed. The Complainant and Respondent named in the complaint will be notified of such action, with a copy of such notice being sent by certified mail or personal delivery to Complainant and by mail or personal delivery to Respondent.

C. Probable Cause Determination

If the Office of Internal Affairs, upon submission of the investigative findings, determines that Probable Cause supporting the allegation(s) of the Complainant does exist, the Complainant and Respondent named in the complaint will be notified of such determination.

D. Disclosure

The Office of Internal Affairs will not disclose any matter that transpires during the course of an Investigation nor any related matter that transpires during the course of conciliation negotiations, except such disclosures as deemed by the Office of Internal Affairs to be essential to said Investigations or as required by court order, administrative agency proceedings or otherwise required by law.

Every effort will be made to treat the Complainant's identity with appropriate regard for confidentiality.

12. Prohibition Against Reprisals

A. Pursuant to the provisions of Government Code section 53298, no County officer or Employee shall take a reprisal action against any County officer or Employee, or Applicant for County employment, who files a complaint pursuant to this procedure. Additionally, no such reprisal action shall be taken against any County officer or Employee who participates as a witness during the course of an Investigation conducted under this procedure.

B. This procedure is not intended to prevent any County Appointing Authority (or designee) from taking, directing others to take, recommending or approving any adverse personnel action with respect to any Employee or Applicant for employment if the appointing authority reasonably believes that the action or inaction is justified on the basis of separate evidence which shows any of the following:

1) The Complainant has made allegations that he or she knows to be false or has made allegations without regard for the truth or falsity thereof.

2) The Complainant has disclosed information from records which are closed to public inspection pursuant to law.

3) The Complainant has disclosed information which is confidential under any other provision of law.

4) The Complainant was the subject of an ongoing or existing disciplinary action prior to the filing of the complaint under the procedure.

5) The Complainant has violated any other provision of the County's ordinances, policies or rules, has failed to perform assigned duties, or has committed any other act unrelated to the allegations that would otherwise be subject to personnel or disciplinary action.

C. It is not a violation of this procedure for an appointing authority (or designee) to take disciplinary action against an Employee if the appointing authority (or designee) had no prior knowledge that a complaint had been filed by the

Complainant.

D. Any County officer or Employee who violates this provision prohibiting reprisals may be subject to disciplinary action up to and including removal in accordance with the applicable provisions of the San Diego County Charter, Civil Service Rules for the Classified Service, and the Rules for the Unclassified Service.

E. Nothing in this Section is intended to interfere with the San Diego County Charter-designated powers of County officers of the Civil Service Commission.

F. As specified in Government Code section 53298.5, any officer, manager, or supervisor who violates Government Code section 53298 with malicious intent may be punished by a fine not to exceed $10,000 and imprisonment in the County jail for up to a period of one year, and in addition, may be subject to other actions, including but not limited to, discipline and individual civil liability for damages.

Approved:

Walter F. Ekard
Chief Administrative Officer

Responsible Department(s)
Office of Internal Affairs

COUNTY OF SAN DIEGO

STATEMENT OF INCOMPATIBLE ACTIVITIES RELATED TO COUNTY DUTIES (Form 519)

***INSTRUCTIONS**: Please complete both sections of this form, checking the appropriate boxes, sign the form, and return it to the Clerk of the Board of Supervisors, 1600 Pacific Highway, Room 402, San Diego, CA 92101-2471.*

(For Official Use Only)

Last Name _____ *First Name* _____

Name of Board, Committee, or Commission _____

E-mail Address _____ *Phone Number* _____

Please check one:

1

☐ **I am NOT engaged in any outside employment or activity for compensation.**

☐ **I am engaged in the following outside employment or activity for compensation:**

Name of Business or Activity _____ *Employer (if applicable)* _____

List duties performed: _____

_____

_____

For additional information, please include on a separate page.

Please check one:

2

☐ **I am NOT currently an officer or member of a policy-making board of a nonprofit organization funded by the County.**

☐ **I am currently an officer or member of the policy-making board of the following nonprofit organization(s) funded by the County:**

Name of Organization _____ *Status in organization* _____

Specific Funding Request (if applicable) _____

Organization or County Department _____ *Department Head Initials* _____

For additional organizations please include on a separate page.

Signature _____ *Date* _____

(For Official Use Only) Determination: ☐ Not incompatible with duties ☐ May be incompatible with duties Reviewer:

COMMUNITY ACTION PARTNERSHIP

Historical Background

On August 20, 1964, Congress approved and authorized the Economic Opportunity Act, Public Law 88-452. The purpose of the Act was to strengthen, supplement, and coordinate efforts to further the National policy to eliminate poverty. Title II of the Act created community action programs whose responsibility was to design and implement programs for the low-income and disadvantaged. Community action programs were also to ensure maximum participation of the target population in the decision-making processes on programs.

The Economic Opportunity Act, as amended, continued until 1974 when the Community Services Act was enacted. The Community Services Act changed the name of the administering agency from the Office of Economic Opportunity to Community Services Administration and extended all programs in the Economic Opportunity Act of 1964, as amended. The goal of the new Act was to promote individual and family self-sufficiency by strengthening community capabilities and resources and refocusing services.

The San Diego County anti-poverty program was established in 1965. The County of San Diego for ten (10) years (1965-1975) designated the Economic Opportunity Commission of San Diego County, Inc., a non-profit agency, to administer funds and operate programs that complied with the appropriate acts.

In 1973, the Federal Office of Economic Opportunity was slated to be defunded and the funds eliminated. The termination of this office meant dollars and programs for low-income residents would no longer be available. At this time, the Board of Supervisors considered recommendations for assuming responsibilities for the program. Revisions at the federal level continued appropriations for the poverty program that resulted in the Board of Supervisors taking no action as the program was no longer in jeopardy.

Even though funding continued, the State Office of Economic Opportunity, Region IX, urged the Board to rescind its designation of the Economic Opportunity Commission as the Community Action Agency for San Diego. The County was awarded a planning and evaluation grant of $50,000 to conduct a study on alternatives available to the County for providing continuing aid to the low-income people and to develop a transition plan in the event the County exercised its option to assume the administrative responsibility. The findings were presented to the Board on March 26, 1974 (95).

On August 24, 1975 (2), the Board approved the revocation of the Economic Opportunity Commission (EOC) designation and designated the County as the Community Action Agency. The reasons for the above were:

1. County Government would be the focal point for all anti-poverty efforts in San Diego County;

2. The assumption provided for flexible and efficient integration of poverty programs with closely related existing on-going County programs and services. (Human Care Services Program);

3. More effective utilization of combined resources. EOC staff reduced from over 100 to 18 resulting in more dollars for services;

4. Mobilization of resources would be increased; and

5. County would be the leader in identifying social service needs, providing services to meet those needs and devising systems/mechanisms to cope with the causes of poverty.

On November 1, 1975, the Community Action Program came under the auspices of the County and was a division of (18 staff positions) the Human Resources Agency. Its sole responsibility was Community Services Administration funded programs. In 1976, the Community Action Program was merged with the County's Human Care Services Program and was renamed Community Action Partnership (36 staff positions). Community Action Partnership administered Community Services Administration, Revenue Sharing, and other funds allocated for social services. This same year, the Department of Human Services was established and Community Action Partnership was designated a division in that Department. Subsequently, Community Action Partnership became a bureau within the Department of Social Services.

In 1996-1997, the Department of Social Services merged with the Department of Health Services and the Health and Human Services Agency was created. The Community Action Partnership program remained but assumed responsibility for contracting and procurement in the Agency. The Contract Operations Division was created with Community Action Partnership as part of this division. Contracts from Alcohol and Drug Services, Adult Mental Health, Children's Mental Health, CalWORKs, Children's Services, County Medical Services, Office of Aids Coordination, In-Home Supportive Services and regional contracts were centralized under Contract Operations.

Effective September 1, 2001, the Health and Human Services Agency implemented a revised contracting model, transferring contracts to their respective Agency program division or region.

Also at this time, the Community Action Partnership program was placed in the Health and Human Services Agency's Central Region.

Appendix A. The History Of Community Action Agencies

Background

From the days of the earliest settlers, the spirit of helping others has been a key element of American society. As communities sprang up and populations grew, the church became an important social institution and helpmate to those less fortunate.

The Industrial Revolution in the mid-1800s witnessed the development of the settlement house, one of the early examples of a physical facility, other than a church, that served as a center of activity for community problem-solving.

In the early 1900s, schools began to offer formal training in the principles and methods of social work, which led to the birth of a new profession. The great depression of the 1930s overwhelmed the nation's communities, leaving churches and voluntary social welfare programs unable to cope with the magnitude of the existing social problems.

The federal government stepped in to provide additional retirement income through a new Social Security program and to assist those temporarily unemployed with the Unemployment Insurance system. It created new banking and labor laws to strengthen the economy. A program to provide temporary public assistance to widows and children of men killed in industrial accidents also was created. Social workers were hired to determine eligibility, advise recipients about how to use the money, and help them obtain services necessary to get them off welfare.

From the 1930s to the late 1950s, state and local governments had much of the responsibility for administering the programs created during the depression.

As the communications media expanded their scope across the United States, the American public became more aware of the problems of the aged, the effects of segregation, of poor education, of health problems caused by malnutrition and hunger, of the need to educate people so they might work, and of the growing difficulties of the low-income population.

The American public soon believed that everyone could live "the good life" and that society as a whole had a responsibility for helping people overcome barriers that prevented them from sharing in the benefits of American society.

The U.S. Supreme Court decision in 1954 in *Brown v. Board of Education* declared that separate schools for blacks and whites in Topeka, Kansas, did not provide an equal education, i.e., that separate was not equal. This landmark decision led to an expansion of federal policy-making into what had previously been a local arena. The decision served as a catalyst in the area of publicly financed activity such as transportation and licensed public accommodations, including lunch counters, restaurants, and hotels. Citizens began to organize to guarantee their rights, and the civil rights movement expanded rapidly.

In 1961, President John F. Kennedy's "New Frontier" included support for programs to prevent juvenile delinquency, and the focal point was the President's Council on Juvenile Delinquency, chaired by U.S. Attorney General Robert Kennedy. In New York City, the President's Council funded Mobilization For Youth (MFY) with the Ford Foundation and the City of New York. MFY organized and coordinated neighborhood councils composed of local officials, service providers, and neighbors to develop plans to correct conditions that led to juvenile delinquency. It also enlisted the aid of school board and city council members to implement those plans.

It was called COMMUNITY ACTION, and it looked like an effective and inexpensive way to

solve problems.

The Ford Foundation was funding other projects, including one in New Haven, Connecticut, that recruited people from all sectors of the community to come together to plan and implement programs to help low-income people. MFY and New Haven are often cited as the "models" for a Community Action Agency.

Creation: 1964

After the assassination of President Kennedy in November 1963, President Lyndon Baines Johnson expanded the policy ideas initiated during the Kennedy administration. In his message to Congress on January 8, 1964, President Johnson said:

Let us carry forward the plans and programs of John F. Kennedy, not because of our sorrow or sympathy, but because they are right....This administration today, here and now, declares an unconditional War on Poverty in America.... Our joint federal-local effort must pursue poverty, pursue it wherever it exists. In city slums, in small towns, in sharecroppers' shacks, or in migrant worker camps, on Indian reservations, among whites as well as Negroes, among the young as well as the aged, in the boom towns and in the depressed areas.

The War on Poverty was born. In February, Sargent Shriver was asked to head a task force to draft legislation. In August, the Economic Opportunity Act of 1964 (EOA) was passed, creating a federal Office of Economic Opportunity (OEO) placed in the Executive Office of the President. Sargent Shriver was named Director, serving until 1969.

Congress also passed the Civil Rights Act of 1964, guaranteeing equal opportunity for all. The Economic Opportunity Act, designed to implement that guarantee in the economic sector, stated in part: "It is therefore the policy of the United States to eliminate the paradox of poverty in the midst of plenty in this nation by opening, to everyone, the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity."

The EOA included new education, employment and training, and work-experience programs such as the Job Corps, the Neighborhood Youth Corps, and Volunteers In Service To America (VISTA). Congress bypassed the state and local governments and provided for direct funding of community groups.

Formative Years: 1964-1967

The federal OEO was to lead the efforts of the War on Poverty and coordinated related programs of all other federal agencies. Community Action Agencies (CAAs) were created at the local level to fight the War on Poverty at home.

The EOA also provided for the creation of economic opportunity offices at the state level in order to involve governors in the War on Poverty. While governors were not empowered to give prior approval on OEO grants, they did retain the right to veto any of those they thought inappropriate. Many, especially those in the South, exercised this right, only to be checked by another EOA provision for veto override by the Director of OEO. Indeed, Sargent Shriver overrode virtually all vetoes.

CAAs varied from grass-roots, community-controlled groups, to those with experienced board members and a highly visible professional staff. Most were incorporated as private nonprofit organizations. A few were city agencies.

Funds were provided by OEO. The local CAAs determined the use of the funds to meet the problems of low-income people as they defined them. These were called local initiative funds and were used for a variety of purposes.

One provision of the EOA called for the poor to have maximum feasible participation in identifying problems and in developing solutions. Across the nation, CAAs opened neighborhood centers in storefronts, housing projects, and other buildings in low-income areas to identify people who needed help and to determine eligibility.

A new group of community leaders developed out of these neighborhood organizations, voicing the concerns of the poor and insisting on change. The philosophy, the strength, and the personal commitments of community action were formed

during this period. It was also during this phase that OEO hired 3,000 new federal employees to manage and monitor all the new programs. Most of these people came from the CAAs, civil rights groups, churches, labor unions, and other activist organizations.

The community action program grew rapidly and poured large amounts of federal funds into communities, leaving some local elected officials concerned over the control of the CAA boards. Unhappy with the new power blocks outside their own political organizations, a few mayors of large cities communicated their concerns to Congress and President Johnson. As a result, Congress began to earmark new funds into congressionally-defined national emphasis programs that reduced the ability of the CAAs to use the funds for other purposes. The President's enthusiasm began to decline.

Restructuring Phase: 1967-1968

In late 1967, Congress passed the Green Amendment, which required that a CAA must be designated as the official CAA for that area by local elected officials in order to operate in that community. After designation, OEO could then recognize the CAA and provide funds. After months of negotiations, over 95 percent of the existing CAAs were designated. In several large cities, the CAA was taken over by the mayor and turned into a public agency.

Congress also passed the Quie Amendment, which required that CAA boards of directors be composed of one-third elected officials, at least one-third low-income representatives selected by a democratic process, and the balance from the private sector.

By 1968, there were 1,600 CAAs covering 2,300 of the nation's 3,300 counties. OEO also required many small, single-county CAAs to join together into multi-county units. By 1969, about 1,000 CAAs had been designated under the Green Amendment and recognized by OEO, reorganized to meet the Quie Amendment criteria, and consolidated according to OEO policy. Almost all of these CAAs are in existence today and operate the programs.

These amendments had a positive effect on most CAA boards, though the issue of increasing the influence of local elected officials on the boards of directors was a significant issue to the leaders of poverty groups that had been operating independently. The formal connection of the political, economic, and community power structures proved to be a tremendous strength. In many places, the CAA's board became the arena for local officials, the business sector, and low-income people to reach agreement on the policies, self-help activities, and programs to help the low-income in their community.

Transition Years: 1969-1974

By 1969, many successful self-help programs had been initiated by OEO and the Community Action Agencies, including Head Start, family planning, community health centers, Legal Services, VISTA, Foster Grandparents, economic development, neighborhood centers, summer youth programs, adult basic education, senior centers, and congregate meal preparation.

Picking up on the concept of using OEO and CAAs as innovators and the testing ground for new programs, and spinning off successful programs to be administered by other federal agencies, President Richard Nixon's administration saw the transfer of several large programs from OEO to the Department of Health, Education, and Welfare and the Department of Labor. Along with the program went administrative oversight responsibility for a substantial part of CAA funding.

At the start of his second term in 1973, President Nixon did not request any funds from Congress for OEO's Community Action Program. Congress nevertheless provided funds. Nixon appointed Howard Phillips as Director of OEO, told him to dismantle and close the agency, and told him not to spend the money Congress provided.

After a series of lawsuits, the Federal District Court in Washington, D.C., ruled that the president could not refuse to spend funds that had been

appropriated by Congress. Phillips resigned without having been confirmed by the Senate.

Program Management Years: 1974-1981

In 1974, under President Gerald Ford, the Community Services Amendments were passed. OEO was dismantled and was replaced by the Community Services Administration (CSA). The employees remained and continued to administer the programs. Community action had found a new home in the federal government.

From 1974 to 1981, CSA continued to fund CAAs, and CAAs continued to help communities and neighborhoods initiate self-help projects such as gardening, solar greenhouses, and housing rehabilitation. They additionally helped create and support federally-funded senior centers and congregate meal sites. Home weatherization and energy crisis programs were initiated in the 1970s.

In the late 1970s, under prodding from Congress, the administration of President Jimmy Carter initiated a large-scale effort to strengthen the role and management systems of both CSA and the CAAs. This resurgence of local spirit and leadership came to a quick end with passage of the Omnibus Budget and Reconciliation Act of 1981.

Block Grant Years: 1981- Present

President Ronald Reagan's administration began a strong movement to reduce substantially the federal government's support for domestic social programs. He proposed to consolidate most federally-funded human needs programs into several large, general purpose block grants, to reduce the total amount of funding by 25 percent, and to delegate the responsibility for administering these block grants to the states.

The proposal was partially successful. Congress created eight new block grants consolidating more than 200 federal programs, reduced the core funding, and turned administrative authority over to the states. However, it did not accept the elimination of federal funding for CAAs.

On September 30, 1981, the CSA was abolished and the Economic Opportunity Act was rescinded. However, the newly-created Community Services Block Grant ensured the continued funding of the *eligible entities*, i.e., the CAAs, migrant programs, and certain other organizations that had been financed through local initiative funds by CSA.

Currently, there are nearly 1,000 CAAs. And CAAs still provide a hand up, not a hand out. The philosophy of eliminating the paradox of poverty in the midst of plenty remains the key concept that motivates CAAs today.

Community Action Agencies/Organizations

State of California Department of Community Services and Development (CSD)

CSD is the state-level partner with the network of local community service agencies in the mission to assist low-income Californians in achieving self-sufficiency, and it plays a strategic role in promoting collaboration among state agencies that address the needs of the poor. As California's anti-poverty agency, all of our programs benefit the less fortunate individuals in our society. We strive to help individuals and families build healthy and productive lives, independent of public resources and full of promise for achieving their highest potential.

Community Action Partnership of California & Nevada
formerly known as: California & Nevada Community Action Association (Cal/Neva)

Cal-Neva CAA is a non-profit organization comprised primarily of California and Nevada Community Action Agency Executive Directors and Board Representatives. Cal-Neva CAA membership also includes single-purpose non-profit organizations working with the economically disadvantaged and private for-profit Companies supportive of Cal-Neva CAA's members and/or activities.

The primary purpose of the Cal-Neva CAA is to forge together public agencies, private organizations and corporate entities that provide or support programs and services for the economically disadvantaged. The Association's long range goal is to improve the financial health of the economically disadvantaged in California and Nevada.

National Community Action Foundation (NCAF)

The National Community Action Foundation (NCAF) is a private, non-profit organization which serves as an advocate and lobbyist for low-income programs. Founded in 1981, NCAF members are Community Action Agencies (CAAs) and state and regional associations of CAAs. NCAF is governed by an elected, volunteer board of Directors.

NCAF works closely with Members of Congress, federal and state agencies, the executive branch both in Washington, D.C. and the states, and with other public interest groups to maintain adequate funding for anti-poverty programs and to shape future social policy directions. NCAF works on a broad range of issues and programs including: the Community Services Block Grant, Head Start, Low-income Home Energy Assistance, Welfare Reform, Employment and Job Training, Housing and Shelter for the Homeless, Services for Older Americans, Health, Nutrition, Tax and Income Policy, and Energy Conservation Programs.

Community Action Partnership (CAP)
formerly known as: National Association of Community Action Agencies (NACAA)

The Community Action Partnership was established in 1972 as the National Association of Community Action Agencies (NACAA) and is the national organization representing the interests of the 1,000 Community Action Agencies (CAAs) working to fight poverty at the local level.

National Association for State Community Services Programs (NASCSP)

NASCSP's mission is to assist states in responding to poverty issues. NASCSP members are state administrators of the Community Services Block Grant (CSBG) and the U.S. Department of Energy's Weatherization Assistance Program (DOE/WAP). NASCSP keeps its members, the federal government, and other interested parties informed about issues related to CSBG and DOE/WAP through its publications.

San Diego County Geographic ZIP Codes and HHSA Regional Boundaries

(Only current geographic ZIP Codes -historic and P.O. Box ZIP codes not included- please contact Ricardo Gutierrez if desired)

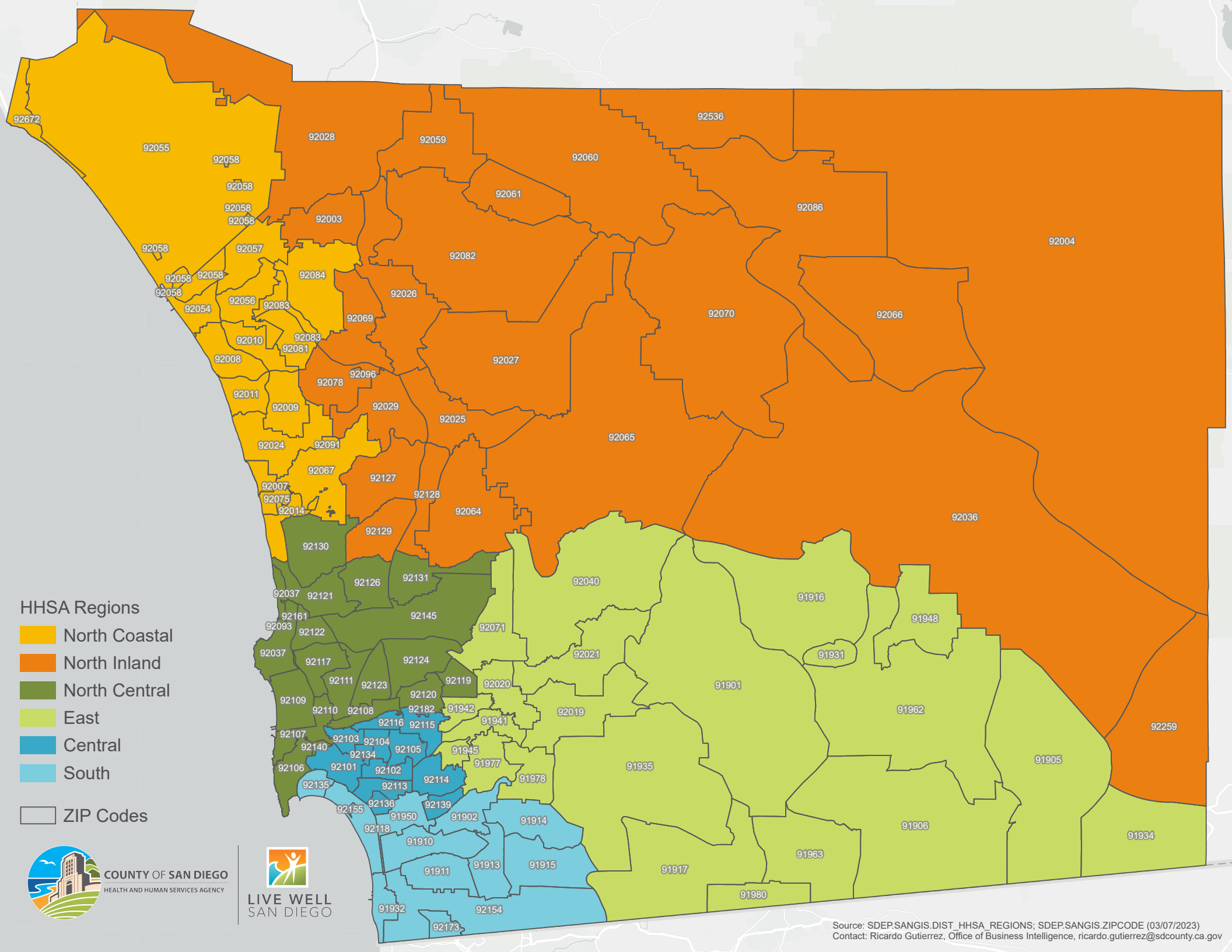
North Coastal	North Inland	North Central	East	Central	South
92007	92003	92037	91901	92101	91902
92008	92004	92093	91905	92102	91910
92009	92025	92106	91906	92103	91911
92010	92026	92107	91916	92104	91913
92011	92027	92108	91917	92105	91914
92014	92028	92109	91931	92113	91915
92024	92029	92110	91934	92114	91932
92054	92036	92111	91935	92115	91950
92055	92059	92117	91941	92116	92118
92056	92060	92119	91942	92134	92135
92057	92061	92120	91945	92136	92154
92058	92064	92121	91948	92139	92155
92067	92065	92122	91962	92182	92173
92075	92066	92123	91963		
92081	92069	92124	91977		
92083	92070	92126	91978		
92084	92078	92130	91980		
92091	92082	92131	92019		
92672	92086	92140	92020		
	92096	92145	92021		
	92127	92161	92040		
	92128		92071		
	92129				
	92259				
	92536				

COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES AGENCY

LIVE WELL SAN DIEGO

County of San Diego
Health and Human Services Agency
Office of Business Intelligence

Source: SDEP.SANGIS.DIST_HHSA_REGIONS; SDEP.SANGIS.ZIPCODE (03/07/2023)
Contact: Ricardo Gutierrez, Office Of Business Intelligence, Ricardo.Gutierrez@sdcounty.ca.gov



COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES AGENCY

LIVE WELL SAN DIEGO

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