



City of Long Beach
Working Together to Serve

Memorandum

Office of the City Attorney

DATE: March 19, 2020

To: Mayor and Members of the City Council
Tom Modica, Acting City Manager
All Department Heads

FROM: Michael J. Mais, Assistant City Attorney 
Monica J. Kilaita, Deputy City Attorney

SUBJECT: **Revised Brown Act Regulations as of March 17, 2020**

On March 12, 2020, the Governor of California issued Executive Order N-25-20 ("March 12th Order") which, among other things, took the unprecedented action of waiving certain requirements of the Ralph M. Brown Act ("Brown Act") **temporarily** in light of the spread of the Coronavirus Disease 2019 ("COVID-19"), an ongoing public health emergency. The March 12th Order essentially relaxed **some** Brown Act requirements related to teleconferencing during public meetings. Still, the March 12th Order required legislative bodies to provide a publicly accessible location from which members of the public would be able to observe and offer public comment during a meeting.

On March 17, 2020, the Governor issued Executive Order N-29-20 ("March 17th Order"), which further relaxed some requirements of the Brown Act for public meetings **and replaced the Brown Act portion of the March 12th Order in its entirety**. Most notably, legislative bodies are no longer required to provide a physical location for the public from which they may observe or provide public comment during a public meeting. As it stands today, and so long as state or local public health officials continue to impose or recommend social distancing measures, a legislative body must follow the below requirements for the teleconferencing of public meetings:

- All members of the legislative body may participate in a public meeting via teleconference from any location, including those outside of the City's jurisdictional boundaries, without posting the agenda at each teleconference location, or making such location publicly accessible;
- Public meetings must be made accessible to members of the public telephonically or through other electronic means;
- Members of the public must have the ability to offer public comment to the legislative body telephonically or through other electronic means;

- A legislative body must implement a procedure for receiving and quickly resolving requests for reasonable modification or accommodation from persons with disabilities, pursuant to the Americans with Disabilities Act ("ADA"), and must resolve any doubt whatsoever in favor of accessibility;
- Notice of the public meeting, including the posting of meeting agendas:
 - Shall follow the timeframes of the Brown Act;
 - Shall include the means by which members of the public could observe the meeting and provide public comment; and
 - Shall advertise the procedure for processing ADA requests for reasonable modifications or accommodations;
 - **NOTE:** If there is ever a change regarding the means of public observation and comment, or if there is any instance prior to the issuance of the **March 17th Order** where the time of the meeting has already been noticed, or the agenda has already been posted without including notice of these means, a legislative body may satisfy the notice requirements by advertising the means using "the most rapid means of communication available at the time,"¹ such as posting them online.

Finally, the March 17th Order urges local bodies to use discretion and make every reasonable effort to adhere to all provisions of the Brown Act as much as reasonably possible in order to maximize transparency and ensure the public has access to these meetings.

PLEASE NOTE: The March 17th Order does not permit members of any Brown Act regulated body (e.g., the City Council or other City Boards and Commissions) to communicate with each other in any way, including electronically via text, phone, or email, during the course of publicly agendized meetings, or at any other time where a majority of the members are participating in such communication concerning business of the legislative body. Civil or criminal penalties continue to exist for members who know or have a reason to know their actions/conduct are in violation of the Brown Act.

Please contact us should you have any questions or concerns.

MJM:MJK:mb
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cc: All City Boards and Commissions
Charles Parkin, City Attorney
Laura Doud, City Auditor
Chris Garner, General Manager, Water Department
Mario Cordero, Executive Director, Harbor Department
Christina Pizarro-Winting, Executive Director, Civil Service
Monique DeLaGarza, City Clerk
Doug Haubert, City Prosecutor
Rebecca Garner, Acting Assistant City Manager
Kevin Jackson, Deputy City Manager

¹ *Within the meaning of Gov. Code § 54954(e).*