

Legal Counsel shall present and report monthly during BOD meeting on all legal is-sues, and the **Closed Session meeting item numbers, topic description and all disclosable information listed on the board of director agenda prior to the closed session meeting and a report after the closed session meeting to the public of the status details of any action taken in the closed session with the vote or abstention on that action of every member present.** The Legal Counsel shall serve at the pleasure of the Board and shall be compensated for services as determined by the Board.

a) The Legal Counsel reports to the Board as a whole but is available to each Director for consultation regarding legal matters particular to that Board member's participation. No Board member may request a legal opinion of legal Legal counsel Counsel without concurrence by the Board, except as such requests relate to questions regarding that member's participation. The Legal Counsel shall be available to the District General Manager for consultation on applicable issues and activities **and support to the standing committees upon request.**

Additional Documentation

Closed Session Meeting to be reported:

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present, 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 follows:

(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 follows:

(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.

(7) Pension fund investment transaction decisions made pursuant to [Section 54956.81](#) shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(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 subdivision (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.

(f) 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](#).

Ventra County Closed session

The Brown Act allows closed sessions under the scope of a regular meeting. It stipulates that they shall comply with agenda posting and be held within the jurisdiction of the legislative body (§ 54954), **which shall include a description of the items to be discussed** (§ 54954.2). In addition, prior to holding any closed session, the legislative body shall disclose, in an open meeting, the item or items to be discussed in the closed session (§ 54957.7). Items that can be discussed by the legislative body are according to § 54954.5:

- License or permit determination (§ 54956.7)
- Conference with real property negotiators (§ 54956.8)
- Conference with legal counsel regarding existing or anticipated litigation (§ 54956.9)
- Liability claims (§ 54956.95)
- Threat to public services or facilities (§ 54957(a))
- Public employee appointment, employment, performance evaluation, discipline, dismissal or release (§ 54957(b))

- Conference with labor negotiators (§ 54957.6)
- Case review or planning (§ 54957.8)
- Report involving trade secret or hearings (§ 54956.87, California Health and Safety code §§1461,32106 and 32155; or California Government Code §§ 37606 and 37624.3)
- Charge or complaint involving information protected by federal law (§ 54956.86).

The legislative body should publicly report actions, along with the vote and abstention count, taken as result of a closed session (§ 54957.1). Documentation relative to the reports should be available to any person on the next business day following the meeting (§ 54957.1(c)).

F. Closed Sessions

The Brown Act allows a legislative body during a meeting to convene a closed session in order to meet privately with its advisors **on specifically enumerated topics**. Sometimes people refer to closed sessions as “executive sessions,” a holdover term from the Brown Act’s early days. Examples of business which may be conducted in closed session include personnel evaluations or labor negotiations, pending litigation, and real estate negotiations (See Sections 54956.7 through 54957 and Sections 54957.6 and 54957.8). Political sensitivity of an item is not a lawful reason for a closed session discussion.

The Brown Act requires that closed session **business be described on the public agenda**. And, there is a “bonus” of sorts for using prescribed language to describe litigation closed sessions in that legal challenges to the adequacy of the description are precluded (Section 54954.5). **This so-called “safe harbor” encourages cities to use a very similar agenda format**. The legislative body must identify the City’s negotiator in open session before going into closed session to discuss either real estate negotiations or labor negotiations.

The legislative body must reconvene the public meeting after a closed session and publicly report specified closed session actions and the vote taken on those actions (Section 54957.1). There are limited exceptions for certain kinds of litigation decisions, and to protect the victims of sexual misconduct or child abuse.

Contracts, settlement agreements or other documents that are finally approved or adopted in closed session must be provided at the time the closed session ends to any person who has made a standing request for all documentation in connection with a request for notice of meetings (typically members of the media) and to any person who makes a request within 24 hours of the posting of the agenda, if the requestor is present when the closed session ends (Section 54957.1).

The Brown Act also includes detailed requirements describing when litigation is considered “pending” for the purposes of a closed session (Section 54956.9). These requirements involve detailed factual determinations that will probably be made in the first instance by the City Attorney.

Roberts v. City of Palmdale, 5 Cal.4th 363 (1993), a California Supreme case, affirms the confidentiality of attorney-client

memoranda. See also Section 54956.9(b)(3)(F) with respect to privileged communications regarding pending litigation.

Closed sessions may be started in a location different from the usual meeting place as long as the location is noted on the agenda and the public can be present when the meeting first begins. Moreover, public comment on closed session items must be allowed before convening the closed session.

One perennial area of confusion is whether a body may discuss salary and benefits of an individual employee (such as a city manager) as part of an evaluation session under Section 54957. It may not. However, the body may designate a negotiator to negotiate with that employee and meet with its negotiator in closed session under Section 54957.6 to provide directions. The employee in question may not be present in such a closed session.