

# Agenda Page 284

## Item 9210

### Open Meeting Act/Brown Act Reform Mandate

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June 2004  
Page 1

#### What Is the Open Meeting Act Mandate?

- **Core Provisions of Open Meeting Act Are Not Mandates.** In 1953, the Legislature enacted the Brown Act, declaring, “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.” Because this act *preceded* mandate law by decades, its provisions are not state-reimbursable mandates.
- **Mandate Reflects Procedural Requirements.** Chapter 641, Statutes of 1986 (AB 2674, Connelly) modified the Brown Act to require local agencies to prepare and post agendas for public meetings. These agenda requirements make-up the “Open Meetings Act” mandate. Chapter 1136, Statutes of 1993 (AB 1426, Burton) and Chapter 1137, Statutes of 1993 (SB 36, Kopp) clarified Chapter 641 and added provisions regarding closed sessions. These requirements are called the “Brown Act Reform” mandate. Because these provisions are highly interrelated, the mandate is frequently referred to as the “Open Meetings Act/Brown Act Reform” mandate.

#### What Is Reimbursed Under the Mandate?

- **Agenda Preparation.** Prepare an agenda for each meeting of a “legislative body” of a local agency or school district. (Legislative body includes governing boards and many permanent, temporary, and advisory bodies.) The agenda must contain a description of each item to be transacted or discussed, items to be discussed in closed session, the time and location of the meeting, and a statement that the public may comment.
- **Agenda Posting.** Post the agenda 72 hours before the meeting in an accessible location.
- **Closed Session Disclosures.** Before holding a closed session, disclose each item to be discussed. Reconvene in open session before adjournment to disclose actions taken in the closed session relating to real estate negotiations, litigation, and labor negotiations. Provide copies of contracts, settlement agreements, and other documents approved or adopted in the closed session as requested.
- **Training.** Prepare training materials and train members of legislative bodies that hold closed executive sessions on Brown Act requirements for closed sessions.

#### What Does the Mandate Cost?

- 2002-03: \$23 million (\$14.5 million for local agencies).
- Average claim was \$12,324.

June 2004

Page 2

### **Examples of Cost Claimed in 2000-01 and 2001-02**

- **Community College Districts (CCDs).** During the two years, Coast, Palomar, and Saddleback CCDs each claimed more than \$3,000 per board meeting. These claims assumed that mandate compliance for each agenda item required 45 minutes of staff time, at an average hourly labor cost of \$40 to \$74. Each CCD claimed more than \$40,000 annually.
- **County of Kern.** For Board of Supervisors meetings in 2000-01, the County of Kern claimed reimbursement for over 4,900 agenda items. The county claimed 30 minutes per agenda item and an hourly labor cost \$43, or a cost per agenda of over \$2,500. The County claimed over \$100,000 each year.
- **City of Fresno.** During both years, the city claimed over \$1,000 per City Council agenda. The city's claims (over \$50,000 per year) included reimbursement for time spent on mandate compliance by the city manager, department directors, city attorney, and others.
- **Citrus Heights Water District.** Claimed over \$1,000 for each of its 12 regular meetings.

### **Differences Between the Houses**

- **Funding Differences.** The Senate "suspended" this mandate for 2004-05. The Assembly deferred funding.
- **Language Difference Between the Houses.** The Assembly adopted budget bill language requesting the Commission on State Mandates to reconsider an earlier determination regarding this mandate (because a small portion of the mandate may not constitute a state-reimbursable mandate under current case law). The Senate did not consider this matter.