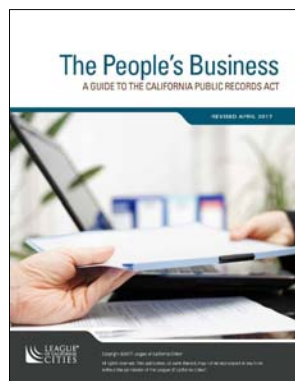


Your Legal Powers and Obligations

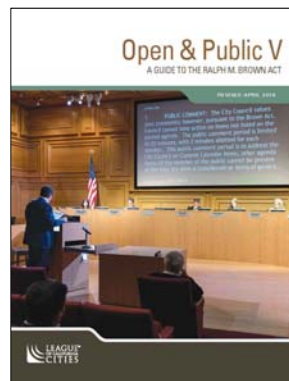
Corrie Manning, League of California Cities®
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LEGAL RESOURCES



www.cacities.org/CPRAGuide



www.cacities.org/BrownActGuide

AGENDA

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

SOURCES OF LAW

- California Constitution
- United States Constitution
- State Statutes
- Federal Statutes
- City Ordinances
- City Charters
- Court Decisions





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CITY POWERS

- Tax
- Eminent Domain
- Public Works
- Corporate
- “Police Power”

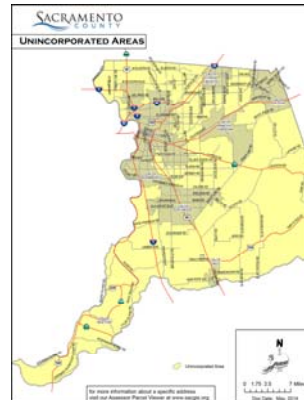


POLICE POWER

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

LIMITATIONS ON POWERS

- City limits
- No gifts of public funds
 - Expenditures must have a public purpose
- Preemption by state or federal law



PREEMPTION

- Basic Rule: when there is a conflict between laws, the “higher” government wins
- A “conflict” exists when:
 - An ordinance contradicts federal/state law
 - An ordinance duplicates federal/state law
 - An ordinance regulates an area “fully occupied” by federal/state law
- Charter cities have authority over “municipal affairs”



GENERAL LAW V. CHARTER CITIES

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



RAISING REVENUE

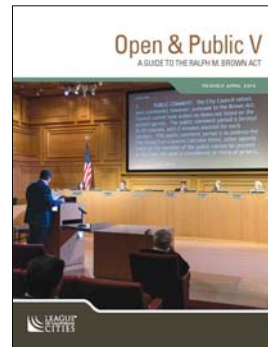
- Taxes
 - General – requires majority approval
 - Special – requires 2/3 approval
 - Proposition 26 broadly defines tax unless an exception applies
- Fees
 - If new, must fit under exception
- Assessments
- Debt Financing



OPEN GOVERNMENT AND TRANSPARENCY



www.cacities.org/CPRAGuide



www.cacities.org/BrownActGuide

BROWN ACT

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



“LEGISLATIVE BODY”

- Includes:

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



“LEGISLATIVE BODY”

- Does not include:

- Temporary advisory committees composed of less than a quorum
- Groups that advise a single decision maker



“MEETINGS”

- Includes:
 - Any gathering of a majority of the legislative body “to hear, discuss, deliberate, or take action” on a matter within the agency’s subject matter jurisdiction
 - Oral collective briefings
 - Legislative retreats
 - “Serial meetings”
 - No daisy chains or hub-and-spoke meetings
 - Use caution with email/social media



“MEETINGS”

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



“OPEN AND PUBLIC”

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



“OPEN AND PUBLIC”

- Does Not Include:
 - Closed Sessions
 - Examples:
 - Litigation
 - Real Estate Negotiations
 - Public Employment
 - Labor Negotiations
 - Requirements:
 - Agenda – “safe harbor” descriptions
 - Public report of actions and votes
 - Confidentiality



PUBLIC RECORDS ACT

- “Public records” must be disclosed unless they are “exempt”



“PUBLIC RECORDS”

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



“PUBLIC RECORDS”

- Does not include:
 - Statutory list of exemptions
 - “Catchall” allows nondisclosure where the public interest in nondisclosure clearly outweighs the public interest in disclosure

PRIVILEGED

ETHICS

- **Political Reform Act**
 - Prohibits official from making, participating in, or influencing a governmental decision in which he or she has a financial interest
 - Reporting obligations
- **Government Code section 1090**
 - Prohibits official from having a financial interest in their agency’s contract
- **Incompatible Offices**
 - Prohibits public officials from holding multiple offices that are incompatible with one another

COUNCILMEMBER'S ROLE WITH RESPECT TO CITY EMPLOYEES

- May have appointing authority over the city's highest officials (e.g., city manager)



CITY COUNCIL-CITY ATTORNEY RELATIONSHIP

- City is the client
- Consult the city attorney early and often
- Relay all pertinent facts and objectives
- Recognize that a concrete answer is not always possible



Questions?

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