

# Oversight Boards: An Overview of AB1x26, the Brown Act & Political Reform Act

*The information presented in this presentation should not be construed to be formal legal advice by the Kings County Counsel's Office, nor the formation of a lawyer/client relationship. Because of the changing nature of this area of the law and the importance of individual facts, board members are encouraged to seek independent counsel for advice regarding their legal issues.*

# Oversight Board

Oversees the actions of the Successor Agency of the former redevelopment agency (RDA) in the dissolution and wind down of the former RDA

# Redevelopment Agencies (RDA)

- Brief Overview: originated California Community Redevelopment Act of 1945
- 5 RDA's within Kings County:
  - County of Kings RDA
  - City of Hanford RDA
  - City of Lemoore RDA
  - City of Corcoran RDA
  - City of Avenal RDA

# AB1X 26- The Dissolution Act

## Health & Safety Code § 33500 et seq.

- All redevelopment agencies in California dissolved as of February 1, 2012
  - Created Successor Agencies to the former RDA and Oversight Boards of the Successor Agencies
- Dissolution Act approved by the Cal. Supreme Court in *Cal. Redevelopment Association v. Matosantos* (2011) 53 Cal.4th 231

# Oversight Board

Health & Safety Code § 34179 et seq.

- 7 member board created by statute, members:
  - serve at the pleasure of the appointing entity
  - have personal immunity from suit for actions taken within the scope of their responsibilities
  - may simultaneously be appointed to up to 5 oversight boards
- Oversight Boards have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax revenues.

# Oversight Board: An Overview

Meetings – Oversight Board is subject to the Brown Act, the Public Records Act, and the Political Reform Act.

Quorum – A majority of the total membership of the Oversight Board constitutes a quorum.

Voting – A majority vote of the total membership of the Oversight Board is required for the Board to take action.

Review - Oversight Board's actions may be reviewed by the Cal. Department of Finance.

Staff/Costs – Oversight Board is staffed by the staff to the Successor Agency and costs associated with the Oversight Board's work are to be paid by the Successor Agency. Oversight Board members shall serve without compensation or reimbursement for expenses.

# Oversight Board shall decide whether to approve Successor Agency actions (§ 34180):

- Establishment of new repayment terms for outstanding loans
- Refunding of outstanding bonds or other debt of the former RDA
- Setting aside of amounts in reserves as required by indentures governing the issuance of outstanding RDA bonds
- Merging of project areas
- Continuing the acceptance of state/federal grants that require greater than 5% matching funds from the successor agency
- Agreements to retain properties or other assets by city or county
- Establishment of the Recognized Obligation Payment Schedule (ROPS)
- A request by Successor Agency to pledge property tax revenues or enter into an agreement with the city or county that formed the RDA

# Oversight Board shall direct, as appropriate, Successor Agency activities (§ 34181):

- Disposal of all assets and properties of the former RDA that were funded by tax increment revenues
- Cease performance and terminate agreements that do not qualify as enforceable obligations
- Transfer housing functions and all Low and Moderate Income Housing funds to the appropriate entity
- Terminate any agreements with other public entities for debt service obligations or construction or operation costs of the public entity.
- Determine whether agreements between the former RDA and private parties should be terminated or renegotiated to reduce liabilities and increase net revenue to the taxing entities.

# The Brown Act: Open Meetings for Legislative Bodies

## Government Code § 54950 et seq.

### PURPOSE

The purpose of the “Brown Act” is to insure that both the deliberations as well as the actions of a local Agency are performed at meetings open to the public and to which the public has been given adequate notice. The Act’s primary objective is to prevent government from being conducted in secret.

# Brown Act: Declaration of Intent § 54950

Legislative bodies of local government agencies

“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.”

# Application of Brown Act Provisions

## GOVERNING BODIES:

Includes city councils, boards of supervisors, district boards, and other legislative bodies of local government agencies created by state or federal law.

- Oversight Boards are subject to the Brown Act (H.&S. Code § 34179)

## SUBSIDIARY BODIES:

Includes boards or commissions of a local government agency as well as standing committees of a legislative body.

- A standing committee has continuing subject matter jurisdiction or a meeting schedule set by its parent body. Less-than-a quorum advisory committees, other than standing committees, are exempt.

# Brown Act: Meetings

## MEETINGS DEFINED:

Meeting means “any congregation of a majority of the members of a legislative body at the same time and location, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.” (§54952.2)

## LOCATIONS OF MEETINGS:

A body must conduct its meetings within the boundaries of its jurisdiction unless it qualifies for a specific exemption. (§54954(b))

## TELECONFERENCE MEETINGS:

Teleconference meetings may be held if the meeting notice specifically identifies all teleconference locations, and each such location is fully accessible to members of the public. (§54953)

# Brown Act: Agenda Requirements (§ 54954.2)

## 72 Hour Rule

Agenda must be prepared and posted in a freely accessible place 72 hours before all regular meetings.

## Contents of Agenda

Agenda must provide “a brief general description of each item of business to be transacted or discussed at the meeting.” (less than 20 words)

# Brown Act: Public Comment (§ 54954.3)

Every agenda shall provide an opportunity for public comment on any item within the subject matter jurisdiction of the Board

- No Prohibition on Criticism
- No Conditions on Attendance (§ 54953.3)

# Brown Act: Agenda Requirements, cont'd.

No action or discussion may take place on any item *not appearing on the posted agenda*, except that Board or staff may briefly respond to statements made or questions posed by persons during the “public comment.”

In response to questions posed by the public, the Board may:

- ask questions for clarification;
- provide a reference to staff or other resources for factual information;
- request staff to report back to the Board at a subsequent meeting on any matter;
- direct staff to place a matter of business on a future agenda.

# Brown Act: 3 Exceptions to the Agenda Requirement (§ 54954.2)

- Need to take action immediately which came to the attention of the Board after the agenda was posted.
  - Requires 2/3 vote of the members present, or unanimous vote if less than 2/3 present before discussing or acting on the item.
- Emergency situation exists, as defined in § 54956.5
  - Requires majority vote before taking action.
- Continued meeting to act on an agenda item
  - The continued meeting must be held and action taken within 5 days of the prior posting.

# Brown Act: Special Meetings (§ 54956)

## 24-Hour Notice

A special meeting may be called at any time so long as all Board members and the media are given at least 24 hours advance notice of the meeting. Notice must be posted in a freely accessible place at least 24 hours before the meeting.

## Contents & Manner of Notice

Notice for the special meeting must contain the time and place of the meeting, the specific items to be discussed or acted upon, and a public comment period. Only those specific items listed may be discussed or acted upon. Written notice of the meeting must be delivered either personally or by any other means to each agency member, and each local media requesting notice in writing.

# Brown Act: Exceptions to Open Meeting Closed Sessions

- Personnel Matters (§ 54957)
- Labor Negotiations (§ 54957.6)
- Litigation (§ 54956.9)
- Real Property Negotiations (§ 54956.8)

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# Brown Act: Penalties for Violating

## Criminal

- Misdemeanor (§ 54959)
  - “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.”

## Civil

- Action for mandamus or injunction (§ 54960.1)
- Cost & attorney fees may be awarded (§ 54960.5)

# Public Records (§ 54957.5)

Agendas and backup materials are public records (Government Code § 6250 et seq.), with a few exceptions. The Board may charge a fee for copies, but the documents must be available free for public inspection.

# Political Reform Act

Government Code § 81000 et seq.

Enacted in 1974 based on the following findings:

- “(a) State and local government should serve the needs and respond to the wishes of all citizens equally, without regard to their wealth;
- (b) Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them; ...” (§ 81001)

# Political Reform Act: Purpose (§ 81002)

- (a) Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.
- (b) The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.
- (c) Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided. ...
- (f) Adequate enforcement mechanisms should be provided to public officials and private citizens in order that this title will be vigorously enforced.

# Political Reform Act: An Overview

- Requires most state and local government officials and employees to publically disclose their personal assets and income.
- Said persons are required to disqualify themselves from participating in decision that may affect their personal economic interest.
- Fair Political Practices Commission issues reporting forms and interprets the Act.

# Form 700: Statement of Economic Interest

- To be filed within 30 days of assuming or leaving office
- Available at:  
<http://www.fppc.ca.gov/forms/700-11-12/Form700-11-12.pdf>

**CALIFORNIA FORM 700**  
FAIR POLITICAL PRACTICES COMMISSION  
A PUBLIC DOCUMENT

STATEMENT OF ECONOMIC INTERESTS  
COVER PAGE

Date Received  
*Official Use Only*

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)

1. Office, Agency, or Court  
Agency Name \_\_\_\_\_  
Division, Board, Department, District, if applicable \_\_\_\_\_ Your Position \_\_\_\_\_  
If filing for multiple positions, list below or on an attachment.  
Agency: \_\_\_\_\_ Position: \_\_\_\_\_

2. Jurisdiction of Office (Check at least one box)  
 State  Judge or Court Commissioner (Statewide Jurisdiction)  
 Multi-County \_\_\_\_\_  County of \_\_\_\_\_  
 City of \_\_\_\_\_  Other: \_\_\_\_\_

3. Type of Statement (Check at least one box)  
 Annual: The period covered is January 1, 2011, through December 31, 2011.  
-or-  
The period covered is \_\_\_\_/\_\_\_\_/\_\_\_\_ through \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Leaving Office: Date Left \_\_\_\_/\_\_\_\_/\_\_\_\_  
(Check one)  
The period covered is January 1, 2011, through the date of leaving office.  
 Assuming Office: Date assumed \_\_\_\_/\_\_\_\_/\_\_\_\_  
 The period covered is \_\_\_\_/\_\_\_\_/\_\_\_\_ through the date of leaving office.  
 Candidate: Election Year \_\_\_\_\_ Office sought, if different than Part 1: \_\_\_\_\_

4. Schedule Summary  
Check applicable schedules or "None."  
Schedule A-1 - Investments - schedule attached  Schedule C - Income, Loans, & Business Positions - schedule attached   
Schedule A-2 - Investments - schedule attached  Schedule D - Income - Gifts - schedule attached   
Schedule B - Real Property - schedule attached  Schedule E - Income - Gifts - Travel Payments - schedule attached   
-or-  
 None - No reportable interests on any schedule

5. Verification  
Check applicable schedules or "None." Total number of pages including this cover page: \_\_\_\_\_  
LASTING ADDRESS STREET CITY STATE ZIP CODE  
(Business or Agency Address Recommended - Public Document)  
DISTRICT TELEPHONE NUMBER E-MAIL ADDRESS (OPTIONAL)  
( )  
I have read of reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.  
I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
Date Signed \_\_\_\_\_ (month, day, year) Signature \_\_\_\_\_ (If the signatory is not you, please print your full name.)

FPPC Form 700 (2011/2012)  
FPPC Toll-Free Helpline: 855/275-3772 www.fppc.ca.gov

# Additional Information

- Fair Political Practices Commission
  - <http://www.fppc.ca.gov/>
- Cal. Department of Finance
  - [http://www.dof.ca.gov/assembly\\_bills\\_26-27/view.php](http://www.dof.ca.gov/assembly_bills_26-27/view.php)
- Kings County Department of Finance
  - <http://www.countyofkings.com/finance/abx126.html>