



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

AGENDA: 9

Fiscal Year 2021-2022 Climate Action Events

**Board of Directors Special Meeting
April 7, 2021**

**Lisa Fasano
External Affairs Officer
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Outcome



Board support for ongoing climate events program with
Acterra: Action for a Healthy Planet

Outline



- Summary of partnership history with Acterra
- Project History
- Overview of past events
- Event proposal for 2021-2022 climate events

Requested Action



Board approval for contract with Acterra: Action for a Healthy Planet in the amount of \$180,000

Partnership History



- Air District explored options for air quality awards program
- Attempts to develop an effective awards program hampered after the 2008 financial crisis
- 2016 - Acterra approached the Air District requesting sponsorship for Business Environmental Awards Program
- 2017 - Spare the Air Leadership Award launched as part of the Acterra Business Environmental Awards Program

Project History



| History of BAAQMD projects with Acterra: Fiscal Year (FY) 2017 through FY 2021 | | | | | |
|--|------------------------|-----------|-----------|-----------|-----------|
| | Fiscal Year: FY2016-17 | FY2017-18 | FY2018-19 | FY2019-20 | FY2020-21 |
| Projects | | | | | |
| Spare the Air Leadership Award | \$40,000 | \$45,000 | \$45,000 | \$50,000 | \$50,000 |
| Lecture Series | | \$10,000 | \$10,000 | \$10,000 | \$15,000 |
| EV Workshops and Ride/Drive Events | \$1,500 | \$18,000 | | | |
| Clean Air Plan Workshops | | \$6,500 | | | |
| Induction Workshops and Demos | | | \$8,500 | | |
| Climate Friendly Cuisine Conference | | \$10,000 | \$30,000 | | |
| Plant-forward Online Education Events | | | | \$40,000 | \$39,030 |
| TOTAL | \$41,500 | \$89,500 | \$93,500 | \$100,000 | \$104,030 |

Proposal



| Acterra 2021-2022 Climate Events | Timing | Cost |
|--|-------------|-----------|
| | | |
| Live Cooking Demonstrations and Marketplace Event - Online | Fall 2021 | \$50,000 |
| Holiday-themed Live Cooking Demonstrations Event – Online | Winter 2021 | \$50,000 |
| Online Pledge Tracking Tool | Year Round | \$10,000 |
| Public Lecture Series - 4 total | Quarterly | \$20,000 |
| Spare the Air Leadership Award | Spring 2022 | \$50,000 |
| | | |
| Total | | \$180,000 |

Feedback Requested/Prompt



Authorize the Executive Officer/APCO to enter into an agreement with Acterra to sponsor climate events in the amount of \$180,000 for fiscal year 2021- 2022.



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AGENDA: 17

Amendments to Regulation 3: Fees

**Board of Directors Special Meeting
April 7, 2021**

**Fred Tanaka
Air Quality Engineering Manager
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Update Administration Committee on Proposed Regulation 3 (Fees) Amendments

Outline



- Cost Recovery Background
- Proposed Fee Amendments
- Rule Development Schedule
- Questions

Requested Action



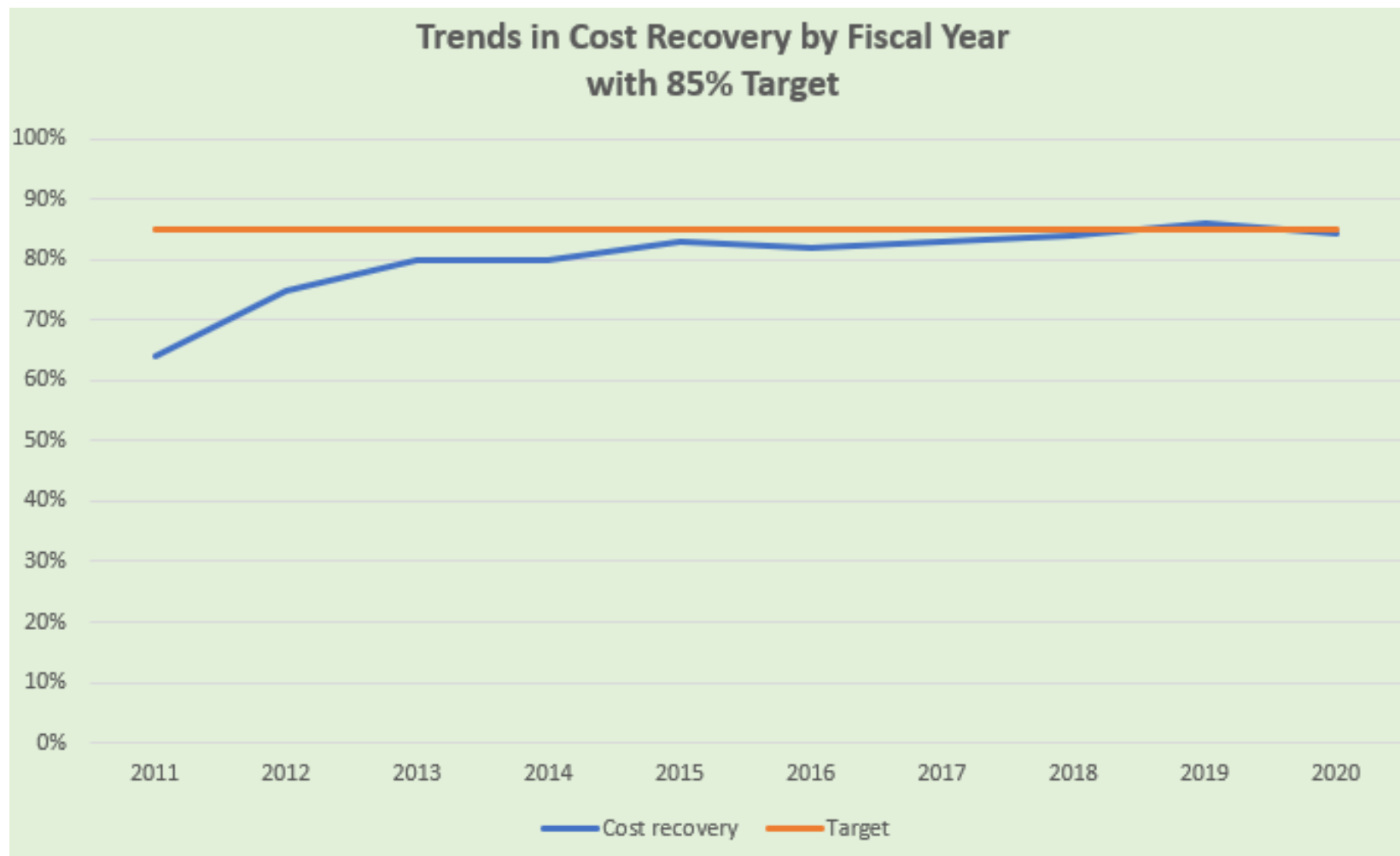
Receive Testimony

Cost Recovery Background



- Air District has authority to assess fees to recover the reasonable costs.
- Board of Directors set goals of increasing cost recovery to a minimum of 85%.
- Fee amendments will be made in consideration of cost recovery analyses at the fee schedule-level.
- Cost recovery is also impacted by:
 - New and enhanced programs
 - Priorities
 - Staffing levels

Trends in Cost Recovery from Regulatory Fees: 3-Year Average



Draft Fee Amendments: Proposed Changes to Fee Schedules



| Revenue from Fee Schedule | Change in Fees | Fee Schedules |
|---------------------------|---------------------------|-------------------|
| 95 – 110% of costs | 1.5% increase (CPI-W*) | B, D, M |
| 85 – 94% of costs | 7% increase | F, P |
| 75 – 84% of costs | 8% increase | E, H |
| 50 - 74% of costs | 9% increase | G2, G3, G4, T, V |
| Less than 50% of costs | 15% increase** | A, G1, K, N, S, W |

* The annual Consumer Price Index for Bay Area Urban Wage Earners and Clerical Workers (CPI-W) increase.

** 2018 Matrix Consulting Group Cost Recovery and Containment Study recommendations.

Proposed Changes to Fee Schedules (cont.)



Fee Schedules with 1.5% increase

Schedule B: Combustion of Fuels

Schedule D: Gasoline Transfer at Gasoline Dispensing
Facilities, Bulk Plants, and Terminals

Schedule M: Major Stationary Source Fees

Fee Schedules with 7% increase

Schedule F: Misc. Sources (storage silos, abrasive blasting)

Schedule P: Major Facility Review Fees

Proposed Changes to Fee Schedules (cont.)



Fee Schedules with 8% increase

Schedule E: Solvent Evaporating Sources

Schedule H: Semiconductor and Related Operations

Fee Schedules with 9% increase

Schedule G-2: Misc. Sources (e.g., asphaltic concrete, furnaces)

Schedule G-3: Misc. Sources (e.g., metal melting, cracking units)

Schedule G-4: Misc. Sources (e.g., cement kilns, sulfur removal and coking units, acid manufacturing)

Schedule T: Greenhouse Gas Fees

Schedule V: Open Burning

Proposed Changes to Fee Schedules (cont.)



Fee Schedules with 15% increase

Schedule A: Hearing Board Fees

Schedule G-1: Misc. Sources (e.g., glass manufacturing, soil remediation)

Schedule K: Solid Waste Disposal Sites

Schedule N: Toxic Inventory Fees

Schedule S: Naturally Occurring Asbestos Operations

Schedule W: Petroleum Refining Emissions Tracking Fees

Assembly Bill (AB) 617 Community Health Impact Fee

- Charged during or after permit renewal for Title V facilities
- No change in the 6.7 percent of the permit renewal fee

Other Proposed Amendments



Specific fees in Regulation 3, Section 300 are proposed to be increased 1.5% based on the CPI-W

- Section 3-302: New and modified source filing fees
- Section 3-311: Emission Banking Fees
- Section 3-312: Regulation 2, Rule 9 Alternative Compliance Plan fee
- Section 3-320: Toxic Inventory maximum fee
- Section 3-327: Permit to Operate renewal processing fee
- Section 3-337: Exemption Fee
- Section 3-341: Fee for Risk Reduction Plan
- Section 3-342: Fee for Facility-Wide Health Risk Assessment
- Section 3-343: Fees for Air Dispersion Modeling

Other Proposed Amendments (cont.)



Increase Risk Assessment Fee (RAF) in Schedule D.A for Gas Dispensing Facilities (GDFs)

- Increase current fee by 15% for modified GDFs
- Charge \$3,827 for new GDFs

Section 3-305: Cancellation or Withdrawal

- Clarify language on credited fees if application is resubmitted

Other Proposed Amendments – Fee for CTR Implementation



California Air Resources Board (CARB), adopted a new regulation for criteria pollutant and toxics emissions reporting titled, “Regulation for the Reporting of Criteria Air Pollutants and Toxic Air Contaminants (CTR)”.

- Implementation includes:
 - System/programming changes, compressed timeframe, future data needs, notification, customer support, and enforcement
- We estimate \$1.5 million per year is needed for implementation

Other Proposed Amendments – Fee for CTR Implementation (cont.)



Current proposal

- Each permitted facility shall pay a CTR fee equal to 4.4% of their facility's annual total permit renewal fee.
- Fee is capped at \$50,000.

Impact on Large Facilities: Power Plants



| | Annual Permit Fee Increase/Decrease (Fiscal Year Ending) | | | | | | |
|----------------|---|-----|------------------|---|-----|-------------------|--|
| | 2020 % fee change, actual/predicted | | 2020 renewal fee | 2021 % fee change, actual/predicted | | 2021 renewal fee* | 2022, <i>Projected</i> % fee change** |
| Delta Energy | 23.3 | 5.8 | \$460,000 | 16.7 | 5.7 | \$530,000 | 9.2 |
| Los Medanos | -1.9 | 6.9 | \$400,000 | 14.2 | 5.7 | \$460,000 | 9.4 |
| Gateway | 8.2 | 6.0 | \$360,000 | 10.0 | 5.7 | \$390,000 | 9.3 |
| Crockett Cogen | 9.7 | 5.8 | \$270,000 | 11.4 | 5.7 | \$300,000 | 9.1 |

*Some renewal fees normalized for CTR.

**Projected impact is based on the same permitting scenario as the previous year including active equipment and production rates.

Impact on Large Facilities: Petroleum Refineries



| Annual Permit Fee Increase/Decrease (Fiscal Year Ending) | | | | | | | |
|---|---|------|---------------------|---|-----|---------------------|---|
| | 2020 % fee change, actual/predicted | | 2020 renewal fee | 2021 % fee change, actual/predicted | | 2021 renewal fee | 2022 <i>Projected*</i> , % fee change |
| Chevron | 0.8 | 12 | \$3.7 million | 15.0 | 2.4 | \$4.2 million | 7.2 |
| Martinez Refining Co. | 1.3 | 11.7 | \$3.5 million | 17.4 | 2.4 | \$4.1 million | 8.0 |
| Phillips 66 | 14.6 | 8.5 | \$1.9 million | 18.5 | 4.3 | \$2.3 million | 8.3 |
| Valero | 23.2 | 13.3 | \$2.3 million | 17.2 | 3.7 | \$2.7 million | 8.6 |
| Tesoro** | 22.3 | 1.9 | \$2.9 million | 8.3 | 3.2 | \$3.1 million | 7.7 |

*Projected impact is based on the same permitting scenario as the previous year, including active equipment and production rates.

**Projected 2022 increase is based on previous year's fees operating as a fossil-fuel refinery.

Impact on Small Businesses



| Facility Type | Current Fees (prior to change) | Proposed Fees (post change) | Proposed Fee Increase | Proposed % Increase |
|--|-----------------------------------|--------------------------------|-----------------------|---------------------|
| Gas Station ^{1,2} | \$239 | \$255 | \$16 | 6% |
| Dry Cleaner (registered) ¹ | \$259 | \$259 | \$0 | 0% |
| Auto Body Shop ^{1,3} | \$729 | \$815 | \$86 | 12% |
| Back-up Generator ^{1,3} | \$382 | \$405 | \$23 | 6% |

1. Assuming facility has only one source.

2. Assuming source has one single-product gasoline nozzle.

3. Assuming source qualifies for minimum fee.

Rule Development Schedule



| | |
|---|-------------------|
| Budget Advisory Group (BAG) meeting #1 | January 19, 2021 |
| Public workshop | February 18, 2021 |
| Budget Advisory Group meeting #2 | March 15, 2021 |
| Administration Committee briefing | March 17, 2021 |
| Written workshop comments due | March 19, 2021 |
| Board of Directors first public hearing to receive testimony | April 7, 2021 |
| Written Public Hearing comments due | April 30, 2021 |
| Board of Directors second public hearing to consider adoption | June 2, 2021 |
| Proposed fee amendments effective | July 1, 2021 |

Feedback Requested/Prompt



Public Testimony and Board Comments



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AGENDA: 18

Rulemaking Efforts and Progress

**Board of Directors Special Meeting
April 7, 2021**

**Elizabeth Yura
Director, Rules Division
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Outcome



Provide a status update on Air District rule development efforts, including Assembly Bill (AB) 617 Expedited Best Available Retrofit Control Technology (BARCT) Schedule rules and other rule development efforts, and rule development challenges

Outline



- AB 617 Expedited BARCT Rules
- Other Rule Development Efforts
- Rule Development Challenges
- Questions / Comments

Requested Action



No Action Requested

Rule Development Schedule



| AB 617 BARCT Schedule Rules | Pollutant(s) | Next Milestones | Board Hearing |
|--|---------------------|-----------------|---------------|
| Rule 6-5: Refinery Fluid Catalytic Crackers | PM, SO ₂ | N/A | June 2021 |
| Rule 8-5: Organic Liquid Storage Tanks | VOCs, TACs | WS: Q2/Q3 2021 | Q4 2021 |
| Rule 8-8: Rule Petroleum Wastewater Treating | VOCs, TACs | WS: Q1 2022 | Q4 2022 |
| Rule 8-18: Refinery Heavy Liquids Leaks | VOCs, TACS | SSCI: Q4 2021 | Q1/Q2 2022 |
| Rule 9-13: Portland Cement Manufacturing | PM, SO ₂ | SSCI: Q1 2022 | TBD |
| Rule 9-14: Petroleum Coke Calcining Operations | PM, SO ₂ | SSCI: Q1 2022 | TBD |

WS: Workshop

SSCI: Stationary Source and Climate Impacts Committee

AB 617 Expedited BARCT Rules



Rule 9-13: Portland Cement Manufacturing

- Federal Consent Decree:
 - Finalized: November 2020
 - Effective: November 2021
- Rule development pending outcome of Consent Decree

Rule 9-14: Petroleum Coke Calcining Operations

- Adopted 2016
- Phillips 66 refinery conversion to renewable fuels production
- Impact on Coke Plant operation is unknown
- Staff to determine if moving forward with rule revisions later this year

Rule Development Schedule (cont.)



| Other Rule Development Efforts | Pollutant(s) | Next Milestones | Board Hearing |
|--|-----------------|--------------------------------|----------------------|
| Rule 2-5: Toxic Permitting | TACs | WS: Q2 2021 | Q4 2021 |
| Particulate Matter Efforts <ul style="list-style-type: none"> • Construction and Concrete Plants • Data Centers and Back-up Generators | PM, TACs DPM | SSCI: Q4 2021 SSCI: Q2 2021 | n/a n/a |
| Organic Materials <ul style="list-style-type: none"> • Rule 13-2: Organic Material Handling • Rule 13-3: Composting Operations | VOCs, PM | BMPs: Q3 2021 | n/a |
| Rule 13-5: Hydrogen Plants | GHGs, VOCs | SSCI: Q4 2021 | Q2 2022 |
| Residential Appliances <ul style="list-style-type: none"> • Rule 9-4: Residential Furnaces • Rule 9-6: Gas-Fired Water Heaters | NOx, PM, GHGs | SSCI: Q2 2021 WS: Q3 2021 | Q2 2022 |
| Regulation 1: Definition of Refinery | n/a | n/a | Q4 2021 / Q1 2022 |

WS: Workshop

SSCI: Stationary Source and Climate Impacts Committee

BMPs: Best Management Practices

Other Rule Development Efforts



Rule 2-5: Toxic Permitting

- Adopted 2005
- Addresses toxic compound emissions from new and modified sources
- Concepts:
 - Reduce the allowable risk threshold
 - Consider background risk levels and community vulnerabilities
 - Update health risk assessments procedures for gasoline dispensing facilities (e.g., gas stations)
- Workshop: Q2 2021
- Board Hearing: Q4 2021

Other Rule Development Efforts (cont.)



Particulate Matter (PM) Reduction Efforts

- Construction Activities and Concrete Batch Plants
 - PM and Toxic Compounds
 - SSCI Committee: Q4 2021
- Data Centers and Back-up Generators
 - Diesel PM
 - SSCI Committee: Q2 2021

Other Rule Development Efforts (cont.)



Rule 13-2: Organic Materials Handling and Rule 13-3: Composting Operations

- Addresses: Volatile Organic Compounds, PM, and Greenhouse Gases (GHGs)
- Workshop in June 2019
- Stakeholder Engagement: Fall 2019
- Technical Working Group Meeting:
 - September 2020
 - October 2020
 - November 2020
- Best Management Practices Document: Q3 2021

Other Rule Development Efforts (cont.)



Rule 13-5: Hydrogen Plants

- Addresses GHGs and VOCs
- Technical Working Group Meeting: January 2020
- Draft Rule Language:
 - January 2020
 - September 2020
- SSCI Committee: Q4 2021
- Board Hearing: Q2 2022

Other Rule Development Efforts (cont.)



Rule 9-4: Residential Furnaces and Rule 9-6: Water Heaters

- Addresses Nitrogen Oxides, PM, with GHG Co-Benefits
- Climate Protection Committee: November 2020
- SSCI Committee: Q2 2021
- Workshop: Q3 2021
- Equity Analysis: Q4 2021
- Board Hearing: Q2 2022

Other Rule Development Efforts (cont.)



Definition of “Refinery”

- Addresses re-purposing of petroleum refineries to renewal fuels production
- Ensures continuous applicability of current refinery provisions
- Board Hearing: Q4 2021 / Q1 2022

Rule Development Challenges



- Changes in Rule Development Staffing
 - Several retirements – experience and institutional knowledge lost
 - Steep learning curve for expanding team – peer to peer training needed, takes time
 - Talented new members – experience increasing rapidly
- AB 617 Resource Re-allocations
 - Resources diverted to AB 617 BARCT schedule and Community Emissions Reduction (CERP) development
 - Straining resources in all divisions – capacity to engage in rulemaking limited
 - Bandwidth expected to increase some with staffing increases

Rule Development Challenges (cont.)



- Nature of Sources Regulated
 - New sources (AB 617 BARCT, organics) have not gone through technical assessment research phase
 - Rulemaking timelines extended – need additional time to develop inventory, evaluate control technologies, etc.
 - New internal processes developed to more quickly identify knowledge gaps, determine best path forward for emissions reductions

Rule Development Challenges (cont.)



- Uncertainty of the Current Times
 - COVID 19 pandemic drastically altered interactions with internal teams and external stakeholders
 - Staff and stakeholders have competing priorities, limited time and resources to engage in rulemaking process
 - Seeing more extended timelines for meetings, workshops
 - Improving as virtual interactions become more comfortable, hopeful capacity will increase soon

Feedback Requested/Prompt



None. Questions?



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AGENDA: 20A

Brown Act Selected Topics

**Board of Directors Special Meeting
April 7, 2021**

**Brian C. Bunger
District Counsel
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Outcome



Provide Overview of Selected Brown Act Topics

Requested Action



None, Informational Only

Outline



- Brown Act Fundamentals
- Relationship to Parliamentary Procedure
- Legislative Bodies under the Brown Act
- Brown Act Meetings
- Brown Act Meeting Exceptions
- Virtual Meetings
- Voting
- Public Comment

Brown Act Fundamentals



- The Ralph M. Brown Act is codified in California Government Code sections 54950, et seq.
- Purposes of the Brown Act include transparency in decision making and public participation in local government
- 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 of a local agency, unless an exception applies (Govt. Code § 54953)
- Brown Act purpose is broad; exceptions are narrow

Relationship to Parliamentary Procedure



- The Brown Act contains legal requirements for open meetings and public access, including some applicable procedural requirements
- Parliamentary procedure (or “law”) is intended to ensure efficient and fair meeting conduct
 - Some elements of parliamentary procedure can be found in the Air District’s Administrative Code (e.g., quorum for committees is 5 members) and other elements in publications like Robert’s Rules of Order
- If there is a conflict, the legal (Brown Act) requirements govern
 - Example: Voting - Under Robert’s Rules elections of officers are typically by secret ballot; the Brown Act, however, prohibits any vote by secret ballot

Legislative Bodies Under the Brown Act



- The following are considered “legislative bodies” under the Brown Act, among others (Govt. Code § 54952(a) and (b)):
 - The “Governing body of a local agency” or any other local body created by state or federal statute
 - Standing committees of a legislative body
 - Bodies created and/or appointed by formal action of a legislative body
- Newly elected members of the governing body even before they assume office must comply with the Brown Act (Govt. Code § 54952.1)

Brown Act Meetings



- A “meeting” is any gathering 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 (Govt. Code, § 54952.2)
- Includes meetings by teleconference, or communications by other electronic means (Govt. Code, §§ 54952.2, 54953)
- Be careful not to engage in “serial meetings” and “meetings” which may occur through use of email, communications devices (e.g., texting), and social media

Brown Act Meeting Exceptions



- Individual member contacts or conversations between member and another person
 - Be careful to avoid serial meetings
- Majority of members at open and publicized conferences, meeting of another organization, or another legislative body of another agency
 - Be careful not to discuss agency business.
- Majority of members at a purely social or ceremonial occasion
 - Be careful not to discuss agency business
 - Be wary of public perception of improper discussions

(Govt. Code, § 54952.2)

Virtual Meetings Under the Brown Act



- *In ordinary times*, the Brown Act provides that meetings may be conducted by teleconferencing (any electronic audio or video connection) under the following conditions:
 - Agendas must be posted at teleconference locations at least 72 hours before the meeting specifying all teleconference locations
 - There must be public access to each teleconference location
 - Public opportunity to speak must be provided at each teleconference location
 - All votes during teleconference meetings must be taken by roll call
- (Govt. Code, § 54953 (b))

Voting



- Legislative bodies must publicly report (1) any action taken and (2) the vote or abstention on that action of each member present for the action (Govt. Code, § 54953(c)(2))
- Action by secret ballot is prohibited (Govt. Code § 54953(c)(1))
- If votes are not taken by roll call, the clerk or chair should read aloud the name of each member with his/her vote or abstention in open session

Public Comment



- Agendas must provide opportunity for public comment:
 - (1) on each item on the agenda at or before the time that it is taken up by the body; and
 - (2) on any topic within the agency's subject matter jurisdiction (i.e., on matters not on the agenda for the meeting)

(Govt. Code § 54954.3(a))
- Responses to public comment on such matters is limited. With narrow and limited exceptions, discussion and action on matters not on the agenda is prohibited. Members may only:
 - Briefly respond to statements/questions from the public
 - Ask a question for clarification
 - Make a brief announcement
 - Make a brief report on his or her activities
 - Provide a reference to staff or other sources for factual information
 - Request staff report back at a later meeting
 - Direct staff to place the matter on a future agenda

(Govt. Code, § 54954.2(a)(3))

Public Comment (cont.)



- “The legislative body of a local agency may adopt reasonable regulations on public comment, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.” (Govt. Code § 54954.3(b)(1))
- “The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.” However, the Brown Act does not “confer any privilege or protection for expression beyond that otherwise provided by law.” (Govt. Code, § 54954.3(c))

Feedback Requested/Prompt



None. Questions?