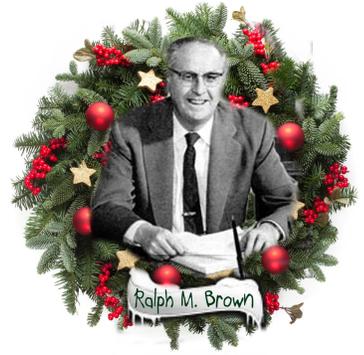


BROWN ACT STOCKING STUFFER FROM SCHOOLS LEGAL SERVICE

BOARDS MUST NOW REPORT OUT HOW EACH MEMBER VOTED — EVEN ON OPEN SESSION MATTERS!



The Brown Act contains a number of mechanisms to ensure transparency and public access to information relating to the meetings of local agency “legislative bodies” such as school and community college district governing boards and county boards of education. The Legislature has added a new transparency/accountability measure: the requirement to report out the vote or abstention of each board member present.

Under existing law, school and community college districts are required to take minutes of Board meetings and to record all actions taken by the governing board. The minutes are public records (Education Code sections 35145/72121 and 35163/72000). For open session items, many districts currently record only the names of the Board members who initiate and second a motion and the tally of votes; others record the action taken and the number of “ayes,” “nays” and abstentions.

In the case of specified actions taken in closed session, boards are already required to report “the vote or abstention . . . of every member present” (Government Code section 54957.1). Effective January 1, 2014, this requirement will extend to open session action items. Senate Bill 751 amends the Brown Act to require that Boards “publicly report any action taken and the vote or abstention on that action of each member present for the action.” The bill adds a new subsection (2) to Government Code section 54953(c).



The legislation was sponsored by the Orange County Business Council and supported by various trade and media groups. A Senate committee analysis of the bill stated, “This bill puts in place reasonable provisions to improve public accountability by requiring those agencies to clearly report the vote or abstention of each member present.”

Districts should review their procedures, forms and/or agenda formats to ensure the votes and abstentions are recorded for each action item. Although the new statute does not require it, districts may wish to accomplish this by means of a roll call vote on action matters, to be certain it is clear how each board member voted. To create a record of compliance with the new requirement, information on the vote or abstention on each board member present should be recorded in the minutes.

The bill states that complying with the new law will not give rise to a reimbursable mandated cost.

Best wishes for the holiday season!

— Grant Herndon