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DON'T WAIT FOR THE MAILMAN! DISTRICTS MUST NOW RESPOND TO REQUESTS FOR AGENDA MATERIALS BY EMAIL

The Brown Act has long required districts to permit “standing requests” for meeting agendas or agenda packets to be mailed to the requester at the earlier of agenda posting or distribution of the materials to a board majority (Brown Act, Government Code section 54954.1). Boards could establish a fee for mailing the agenda materials. The requests were valid for a calendar year, to be renewed each January 1. Requesters are no longer required to wait for the mailman, and can request response by email.

Standing requests for mailed agenda materials can still be made but Senate Bill 274 (Wieckowski) modifies the Brown Act provision to now require local agencies (such as school and community college districts) to respond to a request for delivery by email by either (1) emailing a copy of the documents, or (2) emailing a website link to the agenda materials.¹ The new law does provide some relief from the email requirement if a local agency determines it is technologically infeasible to send a copy of all agenda packet documents or a link to a website that contains the documents by email or by other electronic means. In that case, the documents or website link can be sent by mail.

The deadline for sending the materials in response to a request for email delivery is the same as for mailing: the agenda materials or website link must be provided at the earlier of the time they are posted or provided to a board majority. It does not appear that duration of a standing request for emailed response is limited to a calendar year, or that a fee can be charged for processing the request since the language of the statute referring to those limitations still refers only to requests for mailed copies.

The bill’s author asserted that SB 274 “will make it easier for constituents to become informed about the actions under consideration by their local governments and to voice their concerns in a timely manner.” A supporter stated that the previous provisions for mail response often delayed notification until the actual date of the meeting is past. The Orange County Local Agency Formation Commission asserted the bill would result in significant fiscal impacts, but a legislative analysis concluded costs are likely minor. While the bill imposes a state-mandated local program, its costs are not reimbursable.

¹ Note that there is no legal requirement to post the agenda packet on the district website, only the agenda itself. See Brown Act, Government Code section 54954.2(a)(1).

The failure of a requester to receive the agenda or packet, whether by email, website link, or regular mail, does not give the person grounds to invalidate actions taken by a board at the meeting for which the requested agenda materials were not received.

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