



# CLIENT NEWS BRIEF

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## ATTENDANCE BY A MAJORITY OF THE MEMBERS OF A GOVERNING BODY AT A PRIVATE TOUR OF A SERVICE PROVIDER'S FACILITIES VIOLATES THE BROWN ACT

On August 26, 2011, the California Attorney General issued an opinion (\_\_\_ Ops.Cal.Atty. Gen. \_\_\_, No. 10-702) that, under the provisions of the Ralph M. Brown Act, a majority of the members of a city council may not attend a private tour of the facilities of a water district that provides services to the city for the purpose of acquiring information regarding those services. A majority of the members of a city council may, however, attend such a tour if it is properly noticed as a public meeting, subject to certain conditions.

The Brown Act is California's open meetings law, intended in part to require the actions and deliberations of public agencies to take place publicly. (Gov. Code § 54950.) A "meeting" for purposes of the Brown Act is defined as "any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location . . . to hear discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body." (Gov. Code § 54952.2(a).) The Attorney General noted that it is well settled that this definition of "meeting" encompasses informal deliberative and fact-finding sessions.

The Attorney General presumed that the tour of the water district facilities "would include the acquisition of information relevant to the water services that the district provides, or may provide, to the city" and, as such, was public business constituting a "meeting" if a majority of the council were to participate. Accordingly, it would be a violation of the Brown Act to conduct the meeting privately.

However, the Attorney General noted that a majority of the city council could lawfully attend a tour of the facilities if the tour were held as a properly noticed public meeting, provided that the purpose of the meeting was to tour the facilities and the topics raised during the meeting/tour were limited to items directly related to the facilities being inspected. This was based on the Attorney General's reading of the Brown Act that a legislative body may meet outside of its boundaries "(t)o inspect real or personal property which cannot be conveniently brought within the boundaries of the body's jurisdiction, so long as the topic of the meeting is limited to items directly related to the real or personal property." (Gov. Code § 54954(b)(2).)

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We note that opinions of the Attorney General's office are advisory only and are not legally binding. Nevertheless, the Attorney General's opinion provides an important reminder that the Brown Act applies where a majority of the members of a public agency meet to discuss public business, which may include a tour of facilities. Such a tour can take place outside of the agency's jurisdiction if the meeting only addresses the facilities or property in question. Public agencies should be aware of the risk of a potential Brown Act violation any time a quorum "meets" to discuss public business, and may wish to consult with legal counsel before doing so either in a remote location or on a tour.

If you have any questions, please contact one of our [eight offices](#) located statewide or consult our [website](#).

*Written by:*

[Harold Freiman](#)

Shareholder

Walnut Creek Office

[hfreiman@lozanosmith.com](mailto:hfreiman@lozanosmith.com)

[Laurie Avedisian](#)

Associate

Fresno Office

[lavedisian@lozanosmith.com](mailto:lavedisian@lozanosmith.com)



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