

New Brown Act Reporting Requirements

Brown Act Now Requires Legislative Bodies to Report the Individual Votes of Every Board Member Present for All Actions Taken, Including Motions.

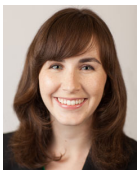
In the past, state law did not require local agencies to report individual officials' votes that were cast during open meetings. When actions are taken in closed sessions or in meetings conducted by teleconference, the Brown Act requires the legislative bodies to report the votes of individual officials.

The new law requires the "legislative body of a local agency [to] publicly report any action taken and the vote or abstention on that action of each member present for the action." (Gov't Code § 54953(c)(2) (emphasis added).) The legislative history of SB 751 explains that critics raised concern that for local agencies with large legislative bodies, the absence of either a roll call vote or a specific tally and report of the votes of each member of a board made it difficult to determine who voted for or against a measure. The legislative history includes the example of the minutes of a May 17, 2012 meeting of the Association of Bay Area Governments which reported that a motion received 27 ayes and 5 nays, without listing the votes of individual members. To address this concern, the legislature passed SB 751.

According to Gov't Code § 54952.6, SB 751 applies to every action that requires a vote including motions, proposals, resolutions and ordinances.

The new law does not mandate a specific method of reporting votes and abstentions. The office of Senator Yee, who introduced the bill, confirmed that the bill was drafted to allow public agencies to choose whichever method they preferred to implement it. To implement this law, agencies should consider several issues: (1) how to report votes during the course of a meeting; (2) how to deal with members who are temporarily absent from the meeting while a vote is taken; and (3) how to record votes in minutes.

There are a number of ways to address these implementation concerns. One way to satisfy the new law is to complete a roll call vote for every board action and record individual votes in the minutes. Alternatively, an agency clerk or secretary could state board member attendance for the record at the beginning of the meeting, which would be reflected in the minutes, and then either the presiding officer or the clerk could



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note orally that all votes are unanimous unless otherwise stated, which would also be reflected in the minutes. For example, a city clerk could state for the record: "The motion carries unanimously." If a board member is temporarily absent or the vote is not unanimous, the clerk could state for the record: "5 votes yes, Board Member A voted no, Board Member B abstained. Motion carried." The minutes would then also reflect how each board member present voted. Since the law does not require agencies to report which board members are absent, this approach would satisfy the requirement to report the votes of those present both orally and in the minutes.

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