

A RESOLUTION CONGRATULATING CITIES FOR CONTINUING TO ADHERE TO THE BROWN ACT DESPITE THE STATE'S DECISION TO SUSPEND ITS REQUIREMENTS FOR FISCAL REASONS

WHEREAS, in 1953 the League collaborated with the California Newspaper Publishers Association and Assembly Member Ralph M. Brown to draft and secure the passage of the state's local government open meetings act, now known as the Brown Act; and

WHEREAS, at the time of the enactment of the Brown Act, many city charters already required open city meetings accessible to the public, and the Brown Act simply extended that requirement to thousands of local agencies, including many special districts, school districts, etc. that had not adopted similar policies; and

WHEREAS, the cities of California have been pioneers in achieving greater transparency in government, adopting local open government policies and involving tens of thousands of citizens in the affairs of their cities; and

WHEREAS, independent of the requirements of state law, city governments across California have an unquestioned commitment to transparency and openness in city operations and government; and

WHEREAS, in 2004 the League proudly supported Proposition 59, a constitutional amendment that passed with 83% of the vote that guarantees the right of public access to meetings of government bodies and writings of government officials; requires that statutes and rules furthering public access shall be broadly construed, or narrowly construed if limiting access; and further requires future statutes and rules limiting access to contain findings justify the necessity of those limitations; and

WHEREAS, the state legislature recently passed AB 1464, a budget trailer bill signed into law on June 27, 2012, which contains a schedule of state mandates that are suspended during the 2012-2013 budget year, including the Brown Act; and

WHEREAS, it is apparent that the purpose of the mandate suspensions is to comply with the requirements of 2004 Proposition 1A, strongly supported by the League, that the Legislature must suspend mandates for which it refuses to reimburse local governments; and

WHEREAS, Senate Bill 1006, which was enacted the same day as AB 1464, amended Section 17581 of the Government Code by adding the following language: "All state-mandated local programs suspended in the Budget Act for the 2012-13 fiscal year shall also be suspended in the 2013-14 and 2014-15." The suspension will therefore last 3 years; and

WHEREAS, the state's dire fiscal condition has led to the suspension of the Brown Act mandate; and

WHEREAS, the Brown Act Committee of the League's City Attorneys Department has concluded that the suspension extends to the following provisions of the Brown Act:

- Preparation and posting at least 72 hours before a regular meeting of an agenda that contains a brief general description of each item of business to be transacted or discussed at the meeting. (See Gov. Code § 54954.2(a).)
- Inclusion on the agenda of a brief general description of all items to be discussed in closed session. (See Gov. Code § 54954.2(a).)
- Disclosure of each item to be discussed in closed session in an open meeting, prior to any closed session. (See Gov. Code § 54957.7 (a).)
- Report in open session prior to adjournment on the actions and votes taken in closed session regarding certain subject matters. (See Gov. Code §§ 54957.1(a)(l)-(4), (6); 54957.7 (b).)
- Provide copies to the public of certain closed session documents. (See Gov. Code § 54957.1 (b)-(c).)

WHEREAS, the Brown Act Committee advises there is precedent for this suspension when the state took similar action in 1990 during a similar financial crisis and that during that time most cities continued to comply with the requirements of the Brown Act; and

WHEREAS, city governments in California enjoy such a comparatively high level of public support and confidence because of their record of commitment to transparency and openness; and

WHEREAS, the Brown Act Committee has concluded that the suspended provisions are central to the Act and that noncompliance with those provisions would unquestionably degrade transparency and erode public support in city government.

BE IT RESOLVED by the board of directors of the League of California Cities congratulates its member cities for their continued faithful compliance with the requirements of the Brown Act during this three-year suspension; and

FURTHER RESOLVED by the board of directors that the League of California Cities will also continue to voluntarily comply with the spirit of the Brown Act; and

FURTHER RESOLVED that the board of directors urges the California State Legislature to comply with similar transparency requirements, including publishing all agendas and legislation no less than 72 hours before proposed action is taken; and

FURTHER RESOLVED that the Executive Director send a copy of this resolution to every member city and post it on the League's website.

APPROVED this 20th day of July 2012 in Manhattan Beach, CA.