

## BROWN ACT REFORM

Statewide Cost Estimate  
Adopted: January 23, 2003

Government Code Sections 54952, 54954.2, 54954.3, 54957.1, and 54957.7

Statutes 1986, Chapter 641  
Statutes 1993, Chapters 1136, 1137 and 1138

### Mandate Background

The test claim legislation expanded the types of “legislative bodies” required to comply with the notice and agenda requirements of the Ralph M. Brown Act, and required all “legislative bodies” of local agencies and school districts to perform a number of additional activities in relation to the closed session requirements of the Brown Act.

The City of Newport Beach filed the *Brown Act Reform* test claim on December 29, 1994. The Commission adopted the Statement of Decision on June 28, 2001, and the parameters and guidelines on April 25, 2002. The parameters and guidelines for *Brown Act Reform* were combined with the parameters and guidelines previously adopted for the *Open Meetings Act*. Beginning in Fiscal Year (FY) 2001-02, claimants may use a unit cost to file combined claims for both acts. However, the parameters and guidelines specify that claimants may not file previously claimed *Open Meetings Act* costs under the new combined parameters and guidelines.

Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by October 1, 2002. The SCO provided the unaudited actual claim totals to the Commission on December 4, 2002. The claims data was used to develop a statewide cost estimate that was issued on December 9, 2002. It included seven fiscal years for a total of \$22,836,000.

In this revised proposed statewide cost estimate, staff excluded FY 2001-02 costs for the *Open Meetings Act* program for purposes of estimating only *Brown Act Reform* costs. The revised proposed statewide cost estimate for seven fiscal years is \$8,834,000 for *Brown Act Reform*.

### Eligible Claimants

Any county, city, a city and county, school or special district that incurs increased costs as a result of this reimbursable state mandated program is eligible to claim reimbursement of those costs.

### Period of Reimbursement

Costs incurred on or after January 1, 1994 are eligible for reimbursement. Initial years’ costs shall not include any costs that were claimable or reimbursed pursuant to *Open Meetings Act* parameters and guidelines as amended on December 4, 1991 or November 30, 2000.

Reimbursement for these costs must be claimed as prescribed in the Controller’s Claiming Instructions No. 2000-15 and 2000-16 for local agencies and schools, respectively.

Annual claims, commencing with the 2001-2002 fiscal year, shall include all costs for *Open Meetings Act* and *Brown Act Reform*.

## **Reimbursable Activities**

As stated previously, these parameters and guidelines include activities for both the *Open Meetings Act* and *Brown Act Reform* test claims. The new eligible claimants and activities related to *Brown Act Reform* are shown below in underline. These are the only activities for which this statewide cost estimate was developed.

For each eligible claimant, the following activities are eligible for reimbursement:

### **A. Agenda Preparation and Posting Activities**

1. Prepare a single agenda for a regular meeting of a legislative body of a local agency or school district containing a brief description of each item of business to be transacted or discussed at a regular meeting, including items to be discussed in closed session, and citing the time and location of the regular meeting.<sup>1</sup> (Gov. Code, § 54954.2, subd. (a).)
2. Post a single agenda 72 hours before a meeting in a location freely accessible to the public. Further, every agenda must state that there is an opportunity for members of the public to comment on matters that are within the subject matter jurisdiction of the legislative body, subject to exceptions stated therein. (Gov. Code, §§ 54954.2, subd. (a), and 54954.3, subd. (a).)

Beginning January 1, 1994, the following types of “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the activities listed in section IV.A:

- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the preparation of a brief general description of closed session agenda items, using either the actual or standard time reimbursement options pursuant to section V.A.1 or 2:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body, which exercises authority, delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.

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<sup>1</sup> As amended by Statutes 1993, chapter 1136.

- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

B. Closed Session Activities

1. Disclose in an open meeting, prior to holding any closed session, each item to be discussed in the closed session. (Gov. Code, § 54957.7, subd. (a).)
2. Reconvene in open session prior to adjournment to make any disclosures required by Section 54957.1 of action taken in the closed session, including items as follows: (Gov. Code, § 54957.7, subd. (b).)
  - a. Approval of an agreement concluding real estate negotiations as specified in Section 54956.8. (Gov. Code, § 54957.1, subd. (a)(1).)
  - b. Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of consultation under Section 54956.9. (Gov. Code, § 54957.1, subd. (a)(2).)
  - c. Approval given to its legal counsel of a settlement of pending litigation as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final. (Gov. Code, § 54957.1, subd. (a)(3).)
  - d. Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies of the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant. (Gov. Code, § 54957.1, subd. (a)(4).)
  - e. Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. (Gov. Code, § 54957.1, subd. (a)(6).)

3. Provide copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session to a person who submitted a written request within the timelines specified or to a person who has made a standing request, as set forth in Sections 54954.1 or 54956 within the time lines specified. (Gov. Code, § 54957.1, subd. (b) and (c).)
4. Train members of only those legislative bodies that actually hold closed executive sessions, on the closed session requirements of *Brown Act Reform*. If such training is given to all members of the legislative body, whether newly appointed or existing members, contemporaneously, time of the trainer and legislative members is reimbursable. Additionally, time for preparation of training materials, obtaining materials including training videos and audio visual aids, and training the trainers to conduct the training is reimbursable. See Section V.B.6 of these parameters and guidelines.

Beginning January 1, 1994, the following “legislative bodies” are eligible to claim reimbursement under these parameters and guidelines for the activities listed in IV.B:

- Governing board, commission, directors or body of a local agency or any board or commission thereof, as well as any board, commission, committee, or other body on which officers of a local agency serve in their official capacity.
- Any board, commission, committee, or body which exercises authority delegated to it by the legislative body.
- Planning commissions, library boards, recreation commissions, and other permanent boards or commissions of a local agency composed of at least a quorum of the members of the legislative body.
- Local Bodies created by state or federal statute.
- Standing Committees with less than a quorum of members of the legislative body that has a continuing subject matter jurisdiction or a meeting schedule fixed by formal action.
- Permanent & Temporary Advisory Bodies (except bodies of less than a quorum of the members of the legislative body).

## Statewide Cost Estimate

Following is a breakdown of estimated total costs per fiscal year:

Fiscal Year	# Of School District Claims Filed With SCO	Amount Claimed by School Districts	# Of City & County Claims Filed With SCO	Amount Claimed by Cities & Counties	Combined Claim Totals
1993-94	87	\$ 92,227	186	\$ 220,584	\$ 312,811
1994-95	111	\$ 193,915	224	\$ 478,851	\$ 672,766
1995-96	117	\$ 214,664	236	\$ 537,543	\$ 752,207
1996-97	130	\$ 230,527	246	\$ 584,256	\$ 814,783
1997-98	120	\$ 212,967	199	\$ 480,821	\$ 693,788
1998-99	129	\$ 223,027	201	\$ 502,170	\$ 725,197
1999-00	133	\$ 258,873	207	\$ 527,577	\$ 786,450
2000-01	145	\$ 381,512	218	\$ 598,250	\$ 979,762
2001-02 (2.7% <sup>2</sup> )	n/a	\$ 391,813	n/a	\$ 614,403	\$1,006,216
2002-03 (2.2% <sup>3</sup> )	n/a	\$ 400,433	n/a	\$ 627,920	\$1,028,353
2003-04 (3.2% <sup>4</sup> )	n/a	\$ 413,247	n/a	\$ 648,013	\$1,061,260
Subtotals		\$3,013,205		\$5,820,388	\$8,833,593
Total					\$8,833,593
<b>Statewide Cost Estimate Total (Rounded)</b>					<b>\$8,834,000</b>

<sup>2</sup> Implicit Price Deflator as forecast by Department of Finance.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*