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Modifications to Brown Act in Response to Gov. Newsom's COVID-19 Executive Order

BROWN ACT IN LIGHT OF COVID-19: CALIFORNIA EXECUTIVE ORDER N-25-20 and N-29-20

Faced with balancing the public's right to attend and participate in public agency open meetings governed by the Ralph M. Brown Act, Governor Newsom issued two executive orders last week intended to relax some of those in-person and on-site requirements.

The first executive order (Exec. Order No. N-25-20, dated March 12, 2020) waived requirements for remote participation by government officials, provided the agency designated one main site and allowed the public to attend in person, and/or attend and participate by electronic means.

By the end of the week, with COVID-19 infection rates climbing, Governor Newsom amended paragraph 11 of his executive order with new executive order (Exec. Order No. N-29-20, dated March 17, 2020), opting instead to allow the entire public agency meeting to be conducted via video, audio, or both.

Key changes under the revised executive order relate to requirements that public agencies make reasonable efforts to allow for most any electronic means to participate in a public open meeting.

Though not specified, these could include the use of text, chat, email, phone, or audio-video platforms such as Zoom, WebEx, Microsoft Teams, or the like. Many of these platforms have the benefit of allowing the public to review scanned copies of pending agenda items from the comfort of their phone, desktop, or laptop from wherever in real-time.

AlvaradoSmith has prepared a presentation that reflects a summary of the standard requirements of the Brown Act and how those have changed temporarily as a result of Governor Newsom's executive orders.

Regardless of when the COVID-19 virus impact is resolved, the relative ease in which public participation can be provided via electronic means is likely to result in substantive, permanent changes to the Brown Act. Greater civic involvement in the government decision-making process means added transparency and integrity – a silver lining in an otherwise temporary gloomy cloud which, when it moves along, will bring greater sunshine all around in all our communities.

As this is a fast moving topic, please note that this post is current as of March 24, 2020.

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