

**HIV Health Services Planning Council
Sacramento TGA**

Policy and Procedure Manual

Section 3 – Legislation

<u>SECTION</u>	<u>SECTION / POLICY TITLE</u>	CURRENT VERSION	PREVIOUS REVISIONS
3	LEGISLATION		
	Ryan White CARE Act Brown Act Pamphlet 2003 Brown Act Legal Code	2009 2003 2004	2000,1995,1990

Calendar No. 182

111TH CONGRESS
1ST SESSION

S. 1793

To amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS.

IN THE SENATE OF THE UNITED STATES

OCTOBER 15, 2009

Mr. HARKIN, from the Committee on Health, Education, Labor, and Pensions, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Ryan White HIV/AIDS Treatment Extension Act of
6 2009”.

7 (b) **REFERENCES.**—Except as otherwise specified,
8 whenever in this Act an amendment is expressed in terms

1 of an amendment to a section or other provision, the ref-
 2 erence shall be considered to be made to a section or other
 3 provision of the Public Health Service Act (42 U.S.C. 201
 4 et seq.).

5 **SEC. 2. REAUTHORIZATION OF HIV HEALTH CARE SERV-**
 6 **ICES PROGRAM.**

7 (a) **ELIMINATION OF SUNSET PROVISION.**—

8 (1) **IN GENERAL.**—The Ryan White HIV/AIDS
 9 Treatment Modernization Act of 2006 (Public Law
 10 109–415; 120 Stat. 2767) is amended by striking
 11 section 703.

12 (2) **EFFECTIVE DATE.**—Paragraph (1) shall
 13 take effect as if enacted on September 30, 2009.

14 (3) **CONTINGENCY PROVISIONS.**—Notwith-
 15 standing section 703 of the Ryan White HIV/AIDS
 16 Treatment Modernization Act of 2006 (Public Law
 17 109–415; 120 Stat. 2767) and section 139 of the
 18 Continuing Appropriations Resolution, 2010—

19 (A) the provisions of title XXVI of the
 20 Public Health Service Act (42 U.S.C. 300ff et
 21 seq.), as in effect on September 30, 2009, are
 22 hereby revived; and

23 (B) the amendments made by this Act to
 24 title XXVI of the Public Health Service Act (42
 25 U.S.C. 300ff et seq.) shall apply to such title as

1 so revived and shall take effect as if enacted on
2 September 30, 2009.

3 (b) PART A GRANTS.—Section 2610(a) (42 U.S.C.
4 300ff-20(a)) is amended by striking “and \$649,500,000
5 for fiscal year 2009” and inserting “\$649,500,000 for fis-
6 cal year 2009, \$681,975,000 for fiscal year 2010,
7 \$716,074,000 for fiscal year 2011, \$751,877,000 for fis-
8 cal year 2012, and \$789,471,000 for fiscal year 2013”.

9 (c) PART B GRANTS.—Section 2623(a) (42 U.S.C.
10 300ff-32(a)) is amended by striking “and \$1,285,200,000
11 for fiscal year 2009” and inserting “\$1,285,200,000 for
12 fiscal year 2009, \$1,349,460,000 for fiscal year 2010,
13 \$1,416,933,000 for fiscal year 2011, \$1,487,780,000 for
14 fiscal year 2012, and \$1,562,169,000 for fiscal year
15 2013”.

16 (d) PART C GRANTS.—Section 2655 (42 U.S.C.
17 300ff-55) is amended by striking “and \$235,100,000 for
18 fiscal year 2009” and inserting “\$235,100,000 for fiscal
19 year 2009, \$246,855,000 for fiscal year 2010,
20 \$259,198,000 for fiscal year 2011, \$272,158,000 for fis-
21 cal year 2012, and \$285,766,000 for fiscal year 2013”.

22 (e) PART D GRANTS.—Section 2671(i) (42 U.S.C.
23 300ff-71(i)) is amended by inserting before the period at
24 the end “, \$75,390,000 for fiscal year 2010, \$79,160,000

1 for fiscal year 2011, \$83,117,000 for fiscal year 2012, and
2 \$87,273,000 for fiscal year 2013”.

3 (f) DEMONSTRATION AND TRAINING GRANTS UNDER
4 PART F.—

5 (1) HIV/AIDS COMMUNITIES, SCHOOLS, AND
6 CENTERS.—Section 2692(c) (42 U.S.C. 300ff-
7 111(c)) is amended—

8 (A) in paragraph (1)—

9 (i) by striking “is authorized” and in-
10 serting “are authorized”; and

11 (ii) by inserting before the period at
12 the end “, \$36,535,000 for fiscal year
13 2010, \$38,257,000 for fiscal year 2011,
14 \$40,170,000 for fiscal year 2012, and
15 \$42,178,000 for fiscal year 2013” ; and

16 (B) in paragraph (2)—

17 (i) by striking “is authorized” and in-
18 serting “are authorized”; and

19 (ii) by inserting before the period at
20 the end “, \$13,650,000 for fiscal year
21 2010, \$14,333,000 for fiscal year 2011,
22 \$15,049,000 for fiscal year 2012, and
23 \$15,802,000 for fiscal year 2013”.

24 (2) MINORITY AIDS INITIATIVE.—Section 2693
25 (42 U.S.C. 300ff-121) is amended—

(A) in subsection (a), by striking “and \$139,100,000 for fiscal year 2009.” and inserting “\$139,100,000 for fiscal year 2009, \$146,055,000 for fiscal year 2010, \$153,358,000 for fiscal year 2011, \$161,026,000 for fiscal year 2012, and \$169,077,000 for fiscal year 2013. The Secretary shall develop a formula for the awarding of grants under subsections (b)(1)(A) and (b)(1)(B) that ensures that funding is provided based on the distribution of populations disproportionately impacted by HIV/AIDS.”;

(B) in subsection (b)(2)—

(i) In subparagraph (A)—

(I) in the matter preceding clause

(i), by striking “competitive,”; and

(II) by adding at the end the fol-

lowing:

“(iv) For fiscal year 2010,
\$46,738,000.

“(v) For fiscal year 2011,
\$49,075,000.

“(vi) For fiscal year 2012,
\$51,528,000.

1 “(vii) For fiscal year 2013,
2 \$54,105,000.”;

3 (ii) in subparagraph (B)—

4 (I) in the matter preceding clause

5 (i), by striking “competitive”; and

6 (II) by adding at the end the fol-
7 lowing:

8 “(iv) For fiscal year 2010,
9 \$8,763,000.

10 “(v) For fiscal year 2011, \$9,202,000.

11 “(vi) For fiscal year 2012,
12 \$9,662,000.

13 “(vii) For fiscal year 2013,
14 \$10,145,000.”;

15 (iii) in subparagraph (C), by adding
16 at the end the following:

17 “(iv) For fiscal year 2010,
18 \$61,343,000.

19 “(v) For fiscal year 2011,
20 \$64,410,000.

21 “(vi) For fiscal year 2012,
22 \$67,631,000.

23 “(vii) For fiscal year 2013,
24 \$71,012,000.”;

1 (iv) in subparagraph (D), by striking
2 "\$18,500,000" and all that follows
3 through the period and inserting the fol-
4 lowing: "the following, as applicable:

5 "(i) For fiscal year 2010,
6 \$20,448,000.

7 "(ii) For fiscal year 2011,
8 \$21,470,000.

9 "(iii) For fiscal year 2012,
10 \$22,543,000.

11 "(iv) For fiscal year 2013,
12 \$23,671,000.";

13 (v) in subparagraph (E), by striking
14 "\$8,500,000" and all that follows through
15 the period and inserting the following: "the
16 following, as applicable:

17 "(i) For fiscal year 2010, \$8,763,000.

18 "(ii) For fiscal year 2011,
19 \$9,201,000.

20 "(iii) For fiscal year 2012,
21 \$9,662,000.

22 "(iv) For fiscal year 2013,
23 \$10,144,000."; and

24 (vi) by adding at the end the fol-
25 lowing:

1 “(g) SYNCHRONIZATION OF MINORITY AIDS INITIA-
2 TIVE.—For fiscal year 2010 and each subsequent fiscal
3 year, the Secretary shall incorporate and synchronize the
4 schedule of application submissions and funding avail-
5 ability under this section with the schedule of application
6 submissions and funding availability under the cor-
7 responding provisions of this title XXVI as follows:

8 “(1) The schedule for carrying out subsection
9 (b)(1)(A) shall be the same as the schedule applica-
10 ble to emergency assistance under part A.

11 “(2) The schedule for carrying out subsection
12 (b)(1)(B) shall be the same as the schedule applica-
13 ble to care grants under part B.

14 “(3) The schedule for carrying out subsection
15 (b)(1)(C) shall be the same as the schedule applica-
16 ble to grants for early intervention services under
17 part C.

18 “(4) The schedule for carrying out subsection
19 (b)(1)(D) shall be the same as the schedule applica-
20 ble to grants for services through projects for HIV-
21 related care under part D.

22 “(5) The schedule for carrying out subsection
23 (b)(1)(E) shall be the same as the schedule applica-
24 ble to grants and contracts for activities through
25 education and training centers under section 2692.”.

1 (3) HHS REPORT.—Not later than 6 months
2 after the publication of the Government Account-
3 ability Office Report on the Minority Aids Initiative
4 described in section 2686, the Secretary of Health
5 and Human Services shall submit to the appropriate
6 committees of Congress a Departmental plan for
7 using funding under section 2693 of the Public
8 Health Service Act (42 U.S.C. 300ff-93) in all rel-
9 evant agencies to build capacity, taking into consid-
10 eration the best practices included in such Report.

11 (g) GAO REPORT.—Section 2686 (42 U.S.C. 300ff-
12 86) is amended to read as follows:

13 **“SEC. 2686. GAO REPORT.**

14 “The Comptroller General of the Government Ac-
15 countability Office shall, not less than 1 year after the
16 date of enactment of the Ryan White HIV/AIDS Treat-
17 ment Extension Act of 2009, submit to the appropriate
18 committees of Congress a report describing Minority
19 AIDS Initiative activities across the Department of Health
20 and Human Services, including programs under this title
21 and programs at the Centers for Disease Control and Pre-
22 vention, the Substance Abuse and Mental Health Services
23 Administration, and other departmental agencies. Such re-
24 port shall include a history of program activities within
25 each relevant agency and a description of activities con-

ducted, people served and types of grantees funded, and shall collect and describe best practices in community outreach and capacity-building of community based organizations serving the communities that are disproportionately affected by HIV/AIDS.”.

SEC. 3. EXTENDED EXEMPTION PERIOD FOR NAMES-BASED REPORTING.

(a) PART A GRANTS.—Section 2603(a)(3) (42 U.S.C. 300ff–13(a)(3)) is amended—

(1) in subparagraph (C)—

(A) in clause (ii)—

(i) in the matter preceding subclause (I), by striking “2009” and inserting “2012”; and

(ii) in subclause (II), by striking “or 2009” and inserting “or a subsequent fiscal year through fiscal year 2012”;

(B) in clause (iv), by striking “2010” and inserting “2012”;

(C) in clause (v), by inserting “or a subsequent fiscal year” after “2009”;

(D) in clause (vi)(II), by inserting after “5 percent” the following: “for fiscal years before fiscal year 2012 (and 6 percent for fiscal year 2012)”;

1 (E) in clause (ix)(II)—

2 (i) by striking “2010” and inserting
3 “2013”; and

4 (ii) by striking “2009” and inserting
5 “2012”; and

6 (F) by adding at the end the following:

7 “(xi) FUTURE FISCAL YEARS.—For
8 fiscal years beginning with fiscal year
9 2013, determinations under this paragraph
10 shall be based only on living names-based
11 cases of HIV/AIDS with respect to the
12 area involved.”; and

13 (2) in subparagraph (D)—

14 (A) in clause (i)—

15 (i) in the matter preceding subclause
16 (I), by striking “2009” and inserting
17 “2012”; and

18 (ii) in subclause (II), by striking “and
19 2009” and inserting “through 2012”; and

20 (B) in clause (ii), by striking “2009” and
21 inserting “2012”.

22 (b) PART B GRANTS.—Section 2618(a)(2) (42
23 U.S.C. 300ff-28(a)(2)) is amended—

24 (1) in subparagraph (D)—

25 (A) in clause (ii)—

1 (i) in the matter preceding subclause
2 (I), by striking “2009” and inserting
3 “2012”; and

4 (ii) in subclause (II), by striking “or
5 2009” and inserting “or a subsequent fis-
6 cal year through fiscal year 2012”;

7 (B) in clause (iv), by striking “2010” and
8 inserting “2012”;

9 (C) in clause (v), by inserting “or a subse-
10 quent fiscal year” after “2009”;

11 (D) in clause (vi)(II), by inserting after “5
12 percent” the following: “for fiscal years before
13 fiscal year 2012 (and 6 percent for fiscal year
14 2012)”;

15 (E) in clause (viii)(II)—

16 (i) by striking “2010” and inserting
17 “2013”; and

18 (ii) by striking “2009” and inserting
19 “2012”; and

20 (F) by adding at the end the following:

21 “(x) FUTURE FISCAL YEARS.—For
22 fiscal years beginning with fiscal year
23 2013, determinations under this paragraph
24 shall be based only on living names-based

1 cases of HIV/AIDS with respect to the
2 State involved.”; and

3 (2) in subparagraph (E), by striking “2009”
4 each place it appears and inserting “2012”.

5 **SEC. 4. EXTENSION OF TRANSITIONAL GRANT AREA STA-**
6 **TUS.**

7 (a) **ELIGIBILITY.**—Section 2609 (42 U.S.C. 300ff–
8 19) is amended—

9 (1) in subsection (c)(1)—

10 (A) in the heading, by striking “2007” and
11 inserting “2011”; and

12 (B) by striking “2007” each place it ap-
13 pears and inserting “2011”; and

14 (C) by striking “2006” and inserting
15 “2010”;

16 (2) in subsection (c)(2)—

17 (A) in subparagraph (A)(ii), by striking
18 “to have a” and inserting “subject to subpara-
19 graphs (B) and (C), to have a”;

20 (B) by redesignating subparagraph (B) as
21 subparagraph (C);

22 (C) by inserting after subparagraph (A)
23 the following:

24 “(B) **PERMITTING MARGIN OF ERROR AP-**
25 **PLICABLE TO CERTAIN METROPOLITAN**

1 AREAS.—In applying subparagraph (A)(ii) for a
 2 fiscal year after fiscal year 2008, in the case of
 3 a metropolitan area that has a cumulative total
 4 of at least 1,400 (and fewer than 1,500) living
 5 cases of AIDS as of December 31 of the most
 6 recent calendar year for which such data is
 7 available, such area shall be treated as having
 8 met the criteria of such subparagraph if not
 9 more than 5 percent of the total from grants
 10 awarded to such area under this part is unobli-
 11 gated as of the end of the most recent fiscal
 12 year for which such data is available.”; and

13 (D) in subparagraph (C), as so redesign-
 14 nated, by striking “Subparagraph (A) does not
 15 apply” and inserting “Subparagraphs (A) and
 16 (B) do not apply”; and

17 (3) in subsection (d)(1)(B), strike “2009” and
 18 insert “2013”.

19 (b) TRANSFER OF AMOUNTS DUE TO CHANGE IN
 20 STATUS AS TRANSITIONAL AREA.—Subparagraph (B) of
 21 section 2610(c)(2) (42 U.S.C. 300ff–20(c)(2)) is amend-
 22 ed—

23 (1) by striking “(B)” and inserting “(B)(i) sub-
 24 ject to clause (ii),”;

1 (2) by striking the period at the end and insert-
2 ing “; and”; and

3 (3) by adding at the end the following:

4 “(ii) for each of fiscal years 2010 through
5 2013, notwithstanding subsection (a)—

6 “(I) there shall be transferred to the
7 State containing the metropolitan area, for
8 purposes described in section 2612(a), an
9 amount (which shall not be taken into ac-
10 count in applying section 2618(a)(2)(H))
11 equal to—

12 “(aa) for the first fiscal year of
13 the metropolitan area not being a
14 transitional area, 75 percent of the
15 amount described in subparagraph
16 (Δ)(i) for such area;

17 “(bb) for the second fiscal year
18 of the metropolitan area not being a
19 transitional area, 50 percent of such
20 amount; and

21 “(cc) for the third fiscal year of
22 the metropolitan area not being a
23 transitional area, 25 percent of such
24 amount; and

“(II) there shall be transferred and made available for grants pursuant to section 2618(a)(1) for the fiscal year, in addition to amounts available for such grants under section 2623, an amount equal to the total amount of the reduction for such fiscal year under subparagraph (A), less the amount transferred for such fiscal year under subclause (I).”.

SEC. 5. HOLD HARMLESS.

(a) PART A GRANTS.—Section 2603(a)(4) (42 U.S.C. 300ff-13(a)(4)) is amended—

(1) in the matter preceding clause (i) in subparagraph (A)—

(A) by striking “2006” and inserting “2009”; and

(B) by striking “2007 through 2009” and inserting “2010 through 2013”;

(2) by striking clauses (i) and (ii) in subparagraph (A) and inserting the following:

“(i) For fiscal year 2010, an amount equal to 95 percent of the sum of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2009:

1 “(ii) For each of the fiscal years 2011
2 and 2012, an amount equal to 100 percent
3 of the amount of the grant made pursuant
4 to paragraph (3) and this paragraph for
5 fiscal year 2010.

6 “(iii) For fiscal year 2013, an amount
7 equal to 92.5 percent of the amount of the
8 grant made pursuant to paragraph (3) and
9 this paragraph for fiscal year 2012.”; and
10 (3) in subparagraph (C), by striking “2009”
11 and inserting “2013”.

12 (b) PART B GRANTS.—Section 2618(a)(2)(II) (42
13 U.S.C. 300ff-28(a)(2)(II)) is amended—

14 (1) in clause (i)(I)—

15 (A) by striking “2007” and inserting
16 “2010”; and

17 (B) by striking “2006” and inserting
18 “2009”;

19 (2) by striking clause (ii) and redesignating
20 clause (iii) as clause (ii);

21 (3) in clause (ii), as so redesignated—

22 (A) in the heading, by striking “2008 AND
23 2009” and inserting “2011 AND 2012”;

24 (B) by striking “2008 and 2009” and in-
25 serting “2011 and 2012”; and

1 (C) by striking “2007” and inserting
2 “2010”;

3 (4) by inserting after clause (ii), as so redesign-
4 nated, the following new clause:

5 “(iii) FISCAL YEAR 2013.—For fiscal
6 year 2013, the Secretary shall ensure that
7 the total for a State of the grant pursuant
8 to paragraph (1) and the grant pursuant
9 to subparagraph (F) is not less than 92.5
10 percent of such total for the State for fis-
11 cal year 2012.”; and

12 (5) in clause (v), by striking “2009” and insert-
13 ing “2013”.

14 (c) TECHNICAL CORRECTIONS.—Title XXVI (42
15 U.S.C. 300ff–11 et seq.) is amended—

16 (1) in subparagraphs (A)(i) and (H) of section
17 2618(a)(2), by striking the term “subparagraph
18 (G)” each place it appears and inserting “subpara-
19 graph (F)”;

20 (2) in sections 2620(a)(2), 2622(c)(1), and
21 2622(c)(4)(A), by striking “2618(a)(2)(G)(i)” and
22 inserting “2618(a)(2)(F)(i)”;

23 (3) in sections 2622(a) and 2623(b)(2)(A), by
24 striking “2618(a)(2)(G)” and inserting
25 “2618(a)(2)(F)”;

1 (4) in section 2622(b), by striking
 2 “2618(a)(2)(G)(ii)” and inserting
 3 “2618(a)(2)(F)(ii)”.

4 **SEC. 6. AMENDMENTS TO THE GENERAL GRANT PROVI-**
 5 **SIONS.**

6 (a) ADMINISTRATION AND PLANNING COUNCIL.—
 7 Section 2602(b)(4) (42 U.S.C. 300ff-12(b)(4)) is amend-
 8 ed—

9 (1) in subparagraph (A), by inserting “, as well
 10 as the size and demographics of the estimated popu-
 11 lation of individuals with HIV/AIDS who are un-
 12 aware of their HIV status” after “HIV/AIDS”;

13 (2) in subparagraph (B)—

14 (A) in clause (i), by striking “and” at the
 15 end after the semicolon;

16 (B) in clause (ii), by inserting “and” after
 17 the semicolon; and

18 (C) by adding at the end the following:

19 “(iii) individuals with HIV/AIDS who
 20 do not know their HIV status;” and

21 (3) in subparagraph (D)—

22 (A) in clause (ii), by striking “and” at the
 23 end after the semicolon;

24 (B) in clause (iii), by inserting “and” after
 25 the semicolon; and

(C) by adding at the end the following:

“(iv) includes a strategy, coordinated as appropriate with other community strategies and efforts, including discrete goals, a timetable, and appropriate funding, for identifying individuals with HIV/AIDS who do not know their HIV status, making such individuals aware of such status, and enabling such individuals to use the health and support services described in section 2604, with particular attention to reducing barriers to routine testing and disparities in access and services among affected subpopulations and historically underserved communities;”.

(b) TYPE AND DISTRIBUTION OF GRANTS.—Section 2603(b) (42 U.S.C. 300ff-13(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G), by striking “and” at the end after the semicolon;

(B) in subparagraph (H), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(I) demonstrates success in identifying individuals with HIV/AIDS as described in

1 clauses (i) through (iii) of paragraph (2)(A).”;

2 and

3 (2) in paragraph (2)(A), by striking the period

4 and inserting: “, and demonstrated success in identi-

5 fying individuals with HIV/AIDS who do not know

6 their HIV status and making them aware of such

7 status counting one-third. In making such deter-

8 mination, the Secretary shall consider—

9 “(i) the number of individuals who

10 have been tested for HIV/AIDS;

11 “(ii) of those individuals described in

12 clause (i), the number of individuals who

13 tested for HIV/AIDS who are made aware

14 of their status, including the number who

15 test positive; and

16 “(iii) of those individuals described in

17 clause (ii), the number who have been re-

18 ferred to appropriate treatment and care.”.

19 (c) APPLICATION.—Section 2605(b)(1) (42 U.S.C.

20 300ff-15(b)(1)) is amended by inserting “, including the

21 identification of individuals with HIV/AIDS as described

22 in clauses (i) through (iii) of section 2603(b)(2)(A)” be-

23 fore the semicolon at the end.

1 SEC. 7. INCREASE IN ADJUSTMENT FOR NAMES-BASED RE-
2 PORTING.

3 (a) PART A GRANTS.—

4 (1) FORMULA GRANTS.—Section
5 2603(a)(3)(C)(vi) (42 U.S.C. 300ff-13(a)(3)(C)(vi))
6 is amended by adding at the end the following:

7 “(III) INCREASED ADJUSTMENT
8 FOR CERTAIN AREAS PREVIOUSLY
9 USING CODE-BASED REPORTING.—For
10 purposes of this subparagraph for
11 each of fiscal years 2010 through
12 2012, the Secretary shall deem the
13 applicable number of living cases of
14 HIV/AIDS in an area that were re-
15 ported to and confirmed by the Cen-
16 ters for Disease Control and Preven-
17 tion to be 3 percent higher than the
18 actual number if—

19 “(aa) for fiscal year 2007,
20 such area was a transitional
21 area;

22 “(bb) fiscal year 2007 was
23 the first year in which the count
24 of living non-AIDS cases of HIV
25 in such area, for purposes of this

1 section, was based on a names-
 2 based reporting system; and

3 “(cc) the amount of funding
 4 that such area received under
 5 this part for fiscal year 2007 was
 6 less than 70 percent of the
 7 amount of funding (exclusive of
 8 funds that were identified as
 9 being for purposes of the Minor-
 10 ity AIDS Initiative) that such
 11 area received under such part for
 12 fiscal year 2006.”.

13 (2) SUPPLEMENTAL GRANTS.—Section
 14 2603(b)(2) (42 U.S.C. 300ff-13(b)(2)) is amended
 15 by adding at the end the following:

16 “(D) INCREASED ADJUSTMENT FOR CER-
 17 TAIN AREAS PREVIOUSLY USING CODE-BASED
 18 REPORTING.—For purposes of this subsection
 19 for each of fiscal years 2010 through 2012, the
 20 Secretary shall deem the applicable number of
 21 living cases of HIV/AIDS in an area that were
 22 reported to and confirmed by the Centers for
 23 Disease Control and Prevention to be 3 percent
 24 higher than the actual number if the conditions

1 described in items (aa) through (cc) of sub-
2 section (a)(3)(C)(vi)(III) are all satisfied.”.

3 (b) PART B GRANTS.—Section 2618(a)(2)(D)(vi) (42
4 U.S.C. 300ff-28(a)(2)(D)(vi)) is amended by adding at the
5 end the following:

6 “(III) INCREASED ADJUSTMENT
7 FOR CERTAIN STATES PREVIOUSLY
8 USING CODE-BASED REPORTING.—For
9 purposes of this subparagraph for
10 each of fiscal years 2010 through
11 2012, the Secretary shall deem the
12 applicable number of living cases of
13 HIV/AIDS in a State that were re-
14 ported to and confirmed by the Cen-
15 ters for Disease Control and Preven-
16 tion to be 3 percent higher than the
17 actual number if—

18 “(aa) there is an area in
19 such State that satisfies all of
20 the conditions described in items
21 (aa) through (cc) of section
22 2603(a)(3)(C)(vi)(III); or

23 “(bb)(AA) fiscal year 2007
24 was the first year in which the
25 count of living non-AIDS cases of

HIV in such area, for purposes of this part, was based on a names-based reporting system; and

“(BB) the amount of funding that such State received under this part for fiscal year 2007 was less than 70 percent of the amount of funding that such State received under such part for fiscal year 2006.”.

SEC. 8. TREATMENT OF UNOBLIGATED FUNDS.

(a) **ELIGIBILITY FOR SUPPLEMENTAL GRANTS.—**

Title XXVI (42 U.S.C. 300ff–11 et seq.) is amended—

(1) in section 2603(b)(1)(H) (42 U.S.C. 300ff–13(b)(1)(H)), by striking “2 percent” and inserting “5 percent”; and

(2) in section 2620(a)(2) (42 U.S.C. 300ff–29a(a)(2)), by striking “2 percent” and inserting “5 percent”.

(b) **CORRESPONDING REDUCTION IN FUTURE GRANT.—**

(1) **IN GENERAL.—**Title XXVI (42 U.S.C. 300ff–11 et seq.) is amended—

1 (A) in section 2603(c)(3)(D)(i)(42 U.S.C.
 2 300ff-13(c)(3)(D)(i)), in the matter following
 3 subclause (II), by striking “2 percent” and in-
 4 serting “5 percent”; and

5 (B) in 2622(c)(4)(A) (42 U.S.C. 300ff-
 6 31a(c)(A)), in the matter following clause (ii),
 7 by striking “2 percent” and inserting “5 per-
 8 cent”.

9 (2) AUTHORITY REGARDING ADMINISTRATION
 10 OF PROVISION.—Title XXVI (42 U.S.C. 300ff-11 et
 11 seq.) is amended—

12 (A) in section 2603(c) (42 U.S.C. 300ff-
 13 13(c), by adding at the end the following:

14 “(4) AUTHORITY REGARDING ADMINISTRATION
 15 OF PROVISIONS.—In administering paragraphs (2)
 16 and (3) with respect to the unobligated balance of
 17 an eligible area, the Secretary may elect to reduce
 18 the amount of future grants to the area under sub-
 19 section (a) or (b), as applicable, by the amount of
 20 any such unobligated balance in lieu of cancelling
 21 such amount as provided for in paragraph (2) or
 22 (3)(A). In such case, the Secretary may permit the
 23 area to use such unobligated balance for purposes of
 24 any such future grant. An amount equal to such re-
 25 duction shall be available for use as additional

1 amounts for grants pursuant to subsection (b), sub-
2 ject to subsection (a)(4) and section 2610(d)(2).
3 Nothing in this paragraph shall be construed to af-
4 fect the authority of the Secretary under paragraphs
5 (2) and (3), including the authority to grant waivers
6 under paragraph (3)(A). The reduction in future
7 grants authorized under this paragraph shall be not-
8 withstanding the penalty required under paragraph
9 (3)(D) with respect to unobligated funds.”;

10 (B) in section 2622 (42 U.S.C. 300ff-31a),
11 by adding at the end the following:

12 “(e) AUTHORITY REGARDING ADMINISTRATION OF
13 PROVISIONS.—In administering subsections (b) and (c)
14 with respect to the unobligated balance of a State, the Sec-
15 retary may elect to reduce the amount of future grants
16 to the State under section 2618, 2620, or 2621, as appli-
17 cable, by the amount of any such unobligated balance in
18 lieu of cancelling such amount as provided for in sub-
19 section (b) or (c)(1). In such case, the Secretary may per-
20 mit the State to use such unobligated balance for purposes
21 of any such future grant. An amount equal to such reduc-
22 tion shall be available for use as additional amounts for
23 grants pursuant to section 2620, subject to section
24 2618(a)(2)(H). Nothing in this paragraph shall be con-
25 strued to affect the authority of the Secretary under sub-

1 sections (b) and (c), including the authority to grant waiv-
 2 ers under subsection (c)(1). The reduction in future
 3 grants authorized under this subsection shall be notwith-
 4 standing the penalty required under subsection (c)(4) with
 5 respect to unobligated funds.”;

6 (C) in section 2603(b)(1)(H) (42 U.S.C.
 7 300ff-13(b)(1)(H)), by striking “canceled” and
 8 inserting “canceled, offset under subsection
 9 (c)(4),”; and

10 (D) in section 2620(a)(2) (42 U.S.C.
 11 300ff-29a(a)(2)), by striking “canceled” and in-
 12 serting “canceled, offset under section
 13 2622(e),”.

14 (c) CONSIDERATION OF WAIVER AMOUNTS IN DE-
 15 TERMINING UNOBLIGATED BALANCES.—

16 (1) PART A GRANTS.—Section
 17 2603(c)(3)(D)(i)(I) (42 U.S.C. 300ff-
 18 14(c)(3)(D)(i)(I)) is amended by inserting after “un-
 19 obligated balance” the following: “(less any amount
 20 of such balance that is the subject of a waiver of
 21 cancellation under subparagraph (A))”.

22 (2) PART B GRANTS.—Section 2622(c)(4)(A)(i)
 23 (42 U.S.C. 300ff-31a(c)(4)(A)(i)) is amended by in-
 24 serting after “unobligated balance” the following:
 25 “(less any amount of such balance that is the sub-

1 ject of a waiver of cancellation under paragraph
2 (1))”.

3 **SEC. 9. APPLICATIONS BY STATES.**

4 Section 2617(b) (42 U.S.C. Section 300ff-27(b)) is
5 amended—

6 (1) in paragraph (6), by striking “and” at the
7 end;

8 (2) in paragraph (7), by striking the period at
9 the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(8) a comprehensive plan—

12 “(A) containing an identification of indi-
13 viduals with HIV/AIDS as described in clauses
14 (i) through (iii) of section 2603(b)(2)(A) and
15 the strategy required under section
16 2602(b)(4)(D)(iv);

17 “(B) describing the estimated number of
18 individuals within the State with HIV/AIDS
19 who do not know their status;

20 “(C) describing activities undertaken by
21 the State to find the individuals described in
22 subparagraph (A) and to make such individuals
23 aware of their status;

24 “(D) describing the manner in which the
25 State will provide undiagnosed individuals who

1 are made aware of their status with access to
 2 medical treatment for their HIV/AIDS; and

3 “(E) describing efforts to remove legal bar-
 4 riers, including State laws and regulations, to
 5 routine testing.”.

6 **SEC. 10. ADAP REBATE FUNDS.**

7 (a) USE OF UNOBLIGATED FUNDS.—Section 2622(d)
 8 (42 U.S.C. 300ff-31a(d)) is amended by adding at the end
 9 the following: “If an expenditure of ADAP rebate funds
 10 would trigger a penalty under this section or a higher pen-
 11 alty than would otherwise have applied, the State may re-
 12 quest that for purposes of this section, the Secretary deem
 13 the State’s unobligated balance to be reduced by the
 14 amount of rebate funds in the proposed expenditure. Not-
 15 withstanding 2618(a)(2)(F), any unobligated amount
 16 under section 2618(a)(2)(F)(ii)(V) that is returned to the
 17 Secretary for reallocation shall be used by the Secretary
 18 for—

19 “(1) the ADAP supplemental program if the
 20 Secretary determines appropriate; or

21 “(2) for additional amounts for grants pursuant
 22 to section 2620.”.

23 (b) TECHNICAL CORRECTION.—Subclause (V) of sec-
 24 tion 2618(a)(2)(F)(ii) (42 U.S.C. 300ff-28(a)(2)(F)(ii))
 25 is amended by striking “, subject to subclause (VI)”.

1 **SEC. 11. APPLICATION TO PRIMARY CARE SERVICES.**

2 (a) IN GENERAL.—Section 2671 (42 U.S.C. 300ff–
3 71), as amended, is amended—

4 (1) by redesignating subsection (i) as subsection
5 (j);

6 (2) in subsection (g), by striking “subsection
7 (i)” and inserting “subsection (j)”; and

8 (3) by inserting after subsection (h) the fol-
9 lowing:

10 “(i) APPLICATION TO PRIMARY CARE SERVICES.—
11 Nothing in this part shall be construed as requiring funds
12 under this part to be used for primary care services when
13 payments are available for such services from other
14 sources (including under titles XVIII, XIX, and XXI of
15 the Social Security Act).”.

16 (b) PROVISION OF CARE THROUGH MEMORANDUM
17 OF UNDERSTANDING.—Section 2671(a) (42 U.S.C.
18 300ff–71(a)) is amended by striking “(directly or through
19 contracts)” and inserting “(directly or through contracts
20 or memoranda of understanding)”.

21 **SEC. 12. NATIONAL HIV/AIDS TESTING GOAL.**

22 Part E of title XXVI (42 U.S.C. 300ff–81 et seq.)
23 is amended—

24 (a) by redesignating section 2688 as section 2689;
25 and

26 (b) by inserting after section 2687 the following:

1 **“SEC. 2688. NATIONAL HIV/AIDS TESTING GOAL.**

2 “(a) IN GENERAL.—Not later than January 1, 2010,
3 the Secretary shall establish a national HIV/AIDS testing
4 goal of 5,000,000 tests for HIV/AIDS annually through
5 federally-supported HIV/AIDS prevention, treatment, and
6 care programs, including programs under this title and
7 other programs administered by the Centers for Disease
8 Control and Prevention.

9 “(b) ANNUAL REPORT.—Not later than January 1,
10 2011, and annually thereafter, the Secretary, acting
11 through the Director of the Centers for Disease Control
12 and Prevention, shall submit to Congress a report describ-
13 ing, with regard to the preceding 12-month reporting pe-
14 riod—

15 “(1) whether the testing goal described in sub-
16 section (a) has been met;

17 “(2) the total number of individuals tested
18 through federally-supported and other HIV/AIDS
19 prevention, treatment, and care programs in each
20 State;

21 “(3) the number of individuals who—

22 “(A) prior to such 12-month period, were
23 unaware of their HIV status; and

24 “(B) through federally-supported and
25 other HIV/AIDS prevention, treatment, and

1 care programs, were diagnosed and referred
2 into treatment and care during such period;

3 “(4) any barriers, including State laws and reg-
4 ulations, that the Secretary determines to be a bar-
5 rier to meeting the testing goal described in sub-
6 section (a);

7 “(5) the amount of funding the Secretary deter-
8 mines necessary to meet the annual testing goal in
9 the following 12 months and the amount of Federal
10 funding expended to meet the testing goal in the
11 prior 12-month period; and

12 “(6) the most cost-effective strategies for iden-
13 tifying and diagnosing individuals who were unaware
14 of their HIV status, including voluntary testing with
15 pre-test counseling, routine screening including opt-
16 out testing, partner counseling and referral services,
17 and mass media campaigns.

18 “(c) REVIEW OF PROGRAM EFFECTIVENESS.—Not
19 later than 1 year after the date of enactment of this sec-
20 tion, the Secretary, in consultation with the Director of
21 the Centers for Disease Control and Prevention, shall sub-
22 mit a report to Congress based on a comprehensive review
23 of each of the programs and activities conducted by the
24 Centers for Disease Control and Prevention as part of the

1 Domestic HIV/AIDS Prevention Activities, including the
2 following:

3 “(1) The amount of funding provided for each
4 program or activity.

5 “(2) The primary purpose of each program or
6 activity.

7 “(3) The annual goals for each program or ac-
8 tivity.

9 “(4) The relative effectiveness of each program
10 or activity with relation to the other programs and
11 activities conducted by the Centers for Disease Con-
12 trol and Prevention, based on the—

13 “(A) number of previously undiagnosed in-
14 dividuals with HIV/AIDS made aware of their
15 status and referred into the appropriate treat-
16 ment;

17 “(B) amount of funding provided for each
18 program or activity compared to the number of
19 undiagnosed individuals with HIV/AIDS made
20 aware of their status;

21 “(C) program’s contribution to the Na-
22 tional HIV/AIDS testing goal; and

23 “(D) progress made toward the goals de-
24 scribed in paragraph (3).

1 “(5) Recommendations if any to Congress on
2 ways to allocate funding for domestic HIV/AIDS
3 prevention activities and programs in order to
4 achieve the National HIV/AIDS testing goal.

5 “(d) COORDINATION WITH OTHER FEDERAL ACTIVI-
6 TIES.—In pursuing the National HIV/AIDS testing goal,
7 the Secretary, where appropriate, shall consider and co-
8 ordinate with other national strategies conducted by the
9 Federal Government to address HIV/AIDS.”.

10 **SEC. 13. NOTIFICATION OF POSSIBLE EXPOSURE TO INFEC-**
11 **TIOUS DISEASES.**

12 Title XXVI (42 U.S.C. 300ff-11 et seq.) is amended
13 by adding at the end the following:

14 **“PART G—NOTIFICATION OF POSSIBLE**
15 **EXPOSURE TO INFECTIOUS DISEASES**

16 **“SEC. 2695. INFECTIOUS DISEASES AND CIRCUMSTANCES**
17 **RELEVANT TO NOTIFICATION REQUIRE-**
18 **MENTS.**

19 “(a) IN GENERAL.—Not later than 180 days after
20 the date of the enactment of this part, the Secretary shall
21 complete the development of—

22 “(1) a list of potentially life-threatening infec-
23 tious diseases, including emerging infectious dis-
24 eases, to which emergency response employees may
25 be exposed in responding to emergencies;

1 “(2) guidelines describing the circumstances in
 2 which such employees may be exposed to such dis-
 3 eases, taking into account the conditions under
 4 which emergency response is provided; and

5 “(3) guidelines describing the manner in which
 6 medical facilities should make determinations for
 7 purposes of section 2695B(d).

8 “(b) SPECIFICATION OF AIRBORNE INFECTIOUS DIS-
 9 EASES.—The list developed by the Secretary under sub-
 10 section (a)(1) shall include a specification of those infec-
 11 tious diseases on the list that are routinely transmitted
 12 through airborne or aerosolized means.

13 “(c) DISSEMINATION.—The Secretary shall—

14 “(1) transmit to State public health officers
 15 copies of the list and guidelines developed by the
 16 Secretary under subsection (a) with the request that
 17 the officers disseminate such copies as appropriate
 18 throughout the States; and

19 “(2) make such copies available to the public.

20 **“SEC. 2695A. ROUTINE NOTIFICATIONS WITH RESPECT TO**
 21 **AIRBORNE INFECTIOUS DISEASES IN VIC-**
 22 **TIMS ASSISTED.**

23 “(a) ROUTINE NOTIFICATION OF DESIGNATED OFFI-
 24 CER.—

1 “(1) DETERMINATION BY TREATING FACIL-
2 ITY.—If a victim of an emergency is transported by
3 emergency response employees to a medical facility
4 and the medical facility makes a determination that
5 the victim has an airborne infectious disease, the
6 medical facility shall notify the designated officer of
7 the emergency response employees who transported
8 the victim to the medical facility of the determina-
9 tion.

10 “(2) DETERMINATION BY FACILITY
11 ASCERTAINING CAUSE OF DEATH.—If a victim of an
12 emergency is transported by emergency response em-
13 ployees to a medical facility and the victim dies at
14 or before reaching the medical facility, the medical
15 facility ascertaining the cause of death shall notify
16 the designated officer of the emergency response em-
17 ployees who transported the victim to the initial
18 medical facility of any determination by the medical
19 facility that the victim had an airborne infectious
20 disease.

21 “(b) REQUIREMENT OF PROMPT NOTIFICATION.—
22 With respect to a determination described in paragraph
23 (1) or (2) of subsection (a), the notification required in
24 each of such paragraphs shall be made as soon as is prac-

1 ticable, but not later than 48 hours after the determina-
2 tion is made.

3 **"SEC. 2695B. REQUEST FOR NOTIFICATION WITH RESPECT**
4 **TO VICTIMS ASSISTED.**

5 “(a) INITIATION OF PROCESS BY EMPLOYEE.—If an
6 emergency response employee believes that the employee
7 may have been exposed to an infectious disease by a victim
8 of an emergency who was transported to a medical facility
9 as a result of the emergency, and if the employee attended,
10 treated, assisted, or transported the victim pursuant to the
11 emergency, then the designated officer of the employee
12 shall, upon the request of the employee, carry out the du-
13 ties described in subsection (b) regarding a determination
14 of whether the employee may have been exposed to an in-
15 fectious disease by the victim.

16 “(b) INITIAL DETERMINATION BY DESIGNATED OF-
17 FICER.—The duties referred to in subsection (a) are
18 that—

19 “(1) the designated officer involved collect the
20 facts relating to the circumstances under which, for
21 purposes of subsection (a), the employee involved
22 may have been exposed to an infectious disease; and

23 “(2) the designated officer evaluate such facts
24 and make a determination of whether, if the victim
25 involved had any infectious disease included on the

1 list issued under paragraph (1) of section 2695(a),
2 the employee would have been exposed to the disease
3 under such facts, as indicated by the guidelines
4 issued under paragraph (2) of such section.

5 “(c) SUBMISSION OF REQUEST TO MEDICAL FACIL-
6 ITY.—

7 “(1) IN GENERAL.—If a designated officer
8 makes a determination under subsection (b)(2) that
9 an emergency response employee may have been ex-
10 posed to an infectious disease, the designated officer
11 shall submit to the medical facility to which the vic-
12 tim involved was transported a request for a re-
13 sponse under subsection (d) regarding the victim of
14 the emergency involved.

15 “(2) FORM OF REQUEST.—A request under
16 paragraph (1) shall be in writing and be signed by
17 the designated officer involved, and shall contain a
18 statement of the facts collected pursuant to sub-
19 section (b)(1).

20 “(d) EVALUATION AND RESPONSE REGARDING RE-
21 QUEST TO MEDICAL FACILITY.—

22 “(1) IN GENERAL.—If a medical facility re-
23 ceives a request under subsection (c), the medical fa-
24 cility shall evaluate the facts submitted in the re-
25 quest and make a determination of whether, on the

1 basis of the medical information possessed by the fa-
2 cility regarding the victim involved, the emergency
3 response employee was exposed to an infectious dis-
4 ease included on the list issued under paragraph (1)
5 of section 2695(a), as indicated by the guidelines
6 issued under paragraph (2) of such section.

7 “(2) NOTIFICATION OF EXPOSURE.—If a med-
8 ical facility makes a determination under paragraph
9 (1) that the emergency response employee involved
10 has been exposed to an infectious disease, the med-
11 ical facility shall, in writing, notify the designated
12 officer who submitted the request under subsection
13 (c) of the determination.

14 “(3) FINDING OF NO EXPOSURE.—If a medical
15 facility makes a determination under paragraph (1)
16 that the emergency response employee involved has
17 not been exposed to an infectious disease, the med-
18 ical facility shall, in writing, inform the designated
19 officer who submitted the request under subsection
20 (c) of the determination.

21 “(4) INSUFFICIENT INFORMATION.—

22 “(A) If a medical facility finds in evalu-
23 ating facts for purposes of paragraph (1) that
24 the facts are insufficient to make the deter-
25 mination described in such paragraph, the med-

1 ical facility shall, in writing, inform the des-
2 ignated officer who submitted the request under
3 subsection (c) of the insufficiency of the facts.

4 “(B)(i) If a medical facility finds in mak-
5 ing a determination under paragraph (1) that
6 the facility possesses no information on whether
7 the victim involved has an infectious disease in-
8 cluded on the list under section 2695(a), the
9 medical facility shall, in writing, inform the des-
10 ignated officer who submitted the request under
11 subsection (c) of the insufficiency of such med-
12 ical information.

13 “(ii) If after making a response under
14 clause (i) a medical facility determines that the
15 victim involved has an infectious disease, the
16 medical facility shall make the determination
17 described in paragraph (1) and provide the ap-
18 plicable response specified in this subsection.

19 “(e) TIME FOR MAKING RESPONSE.—After receiving
20 a request under subsection (c) (including any such request
21 resubmitted under subsection (g)(2)), a medical facility
22 shall make the applicable response specified in subsection
23 (d) as soon as is practicable, but not later than 48 hours
24 after receiving the request.

25 “(f) DEATH OF VICTIM OF EMERGENCY.—

1 “(1) FACILITY ASCERTAINING CAUSE OF
 2 DEATH.—If a victim described in subsection (a) dies
 3 at or before reaching the medical facility involved,
 4 and the medical facility receives a request under
 5 subsection (c), the medical facility shall provide a
 6 copy of the request to the medical facility
 7 ascertaining the cause of death of the victim, if such
 8 facility is a different medical facility than the facility
 9 that received the original request.

10 “(2) RESPONSIBILITY OF FACILITY.—Upon the
 11 receipt of a copy of a request for purposes of para-
 12 graph (1), the duties otherwise established in this
 13 subpart regarding medical facilities shall apply to
 14 the medical facility ascertaining the cause of death
 15 of the victim in the same manner and to the same
 16 extent as such duties apply to the medical facility
 17 originally receiving the request.

18 “(g) ASSISTANCE OF PUBLIC HEALTH OFFICER.—

19 “(1) EVALUATION OF RESPONSE OF MEDICAL
 20 FACILITY REGARDING INSUFFICIENT FACTS.—

21 “(A) In the case of a request under sub-
 22 section (c) to which a medical facility has made
 23 the response specified in subsection (d)(4)(A)
 24 regarding the insufficiency of facts, the public
 25 health officer for the community in which the

1 medical facility is located shall evaluate the re-
2 quest and the response, if the designated officer
3 involved submits such documents to the officer
4 with the request that the officer make such an
5 evaluation.

6 “(B) As soon as is practicable after a pub-
7 lic health officer receives a request under sub-
8 paragraph (A), but not later than 48 hours
9 after receipt of the request, the public health
10 officer shall complete the evaluation required in
11 such paragraph and inform the designated offi-
12 cer of the results of the evaluation.

13 “(2) FINDINGS OF EVALUATION.—

14 “(A) If an evaluation under paragraph
15 (1)(A) indicates that the facts provided to the
16 medical facility pursuant to subsection (c) were
17 sufficient for purposes of determinations under
18 subsection (d)(1)—

19 “(i) the public health officer shall, on
20 behalf of the designated officer involved,
21 resubmit the request to the medical facil-
22 ity; and

23 “(ii) the medical facility shall provide
24 to the designated officer the applicable re-
25 sponse specified in subsection (d).

1 “(B) If an evaluation under paragraph
 2 (1)(A) indicates that the facts provided in the
 3 request to the medical facility were insufficient
 4 for purposes of determinations specified in sub-
 5 section (c)—

6 “(i) the public health officer shall pro-
 7 vide advice to the designated officer re-
 8 garding the collection and description of
 9 appropriate facts; and

10 “(ii) if sufficient facts are obtained by
 11 the designated officer—

12 “(I) the public health officer
 13 shall, on behalf of the designated offi-
 14 cer involved, resubmit the request to
 15 the medical facility; and

16 “(II) the medical facility shall
 17 provide to the designated officer the
 18 appropriate response under subsection
 19 (c).

20 **“SEC. 2695C. PROCEDURES FOR NOTIFICATION OF EXPO-**
 21 **SURE.**

22 “(a) CONTENTS OF NOTIFICATION TO OFFICER.—In
 23 making a notification required under section 2695A or
 24 section 2695B(d)(2), a medical facility shall provide—

1 “(1) the name of the infectious disease involved;
2 and

3 “(2) the date on which the victim of the emer-
4 gency involved was transported by emergency re-
5 sponse employees to the medical facility involved.

6 “(b) MANNER OF NOTIFICATION.—If a notification
7 under section 2695A or section 2695B(d)(2) is mailed or
8 otherwise indirectly made—

9 “(1) the medical facility sending the notification
10 shall, upon sending the notification, inform the des-
11 ignated officer to whom the notification is sent of
12 the fact that the notification has been sent; and

13 “(2) such designated officer shall, not later
14 than 10 days after being informed by the medical fa-
15 cility that the notification has been sent, inform
16 such medical facility whether the designated officer
17 has received the notification.

18 **“SEC. 2695D. NOTIFICATION OF EMPLOYEE.**

19 “(a) IN GENERAL.—After receiving a notification for
20 purposes of section 2695A or 2695B(d)(2), a designated
21 officer of emergency response employees shall, to the ex-
22 tent practicable, immediately notify each of such employ-
23 ees who—

24 “(1) responded to the emergency involved; and

1 “(2) as indicated by guidelines developed by the
2 Secretary, may have been exposed to an infectious
3 disease.

4 “(b) CERTAIN CONTENTS OF NOTIFICATION TO EM-
5 PLOYEE.—A notification under this subsection to an emer-
6 gency response employee shall inform the employee of—

7 “(1) the fact that the employee may have been
8 exposed to an infectious disease and the name of the
9 disease involved;

10 “(2) any action by the employee that, as indi-
11 cated by guidelines developed by the Secretary, is
12 medically appropriate; and

13 “(3) if medically appropriate under such cri-
14 teria, the date of such emergency.

15 “(c) RESPONSES OTHER THAN NOTIFICATION OF
16 EXPOSURE.—After receiving a response under paragraph
17 (3) or (4) of subsection (d) of section 2695B, or a re-
18 sponse under subsection (g)(1) of such section, the des-
19 ignated officer for the employee shall, to the extent prac-
20 ticable, immediately inform the employee of the response.

21 **“SEC. 2695E. SELECTION OF DESIGNATED OFFICERS.**

22 “(a) IN GENERAL.—For the purposes of receiving no-
23 tifications and responses and making requests under this
24 subpart on behalf of emergency response employees, the
25 public health officer of each State shall designate 1 official

1 or officer of each employer of emergency response employ-
2 ees in the State.

3 “(b) PREFERENCE IN MAKING DESIGNATIONS.—In
4 making the designations required in subsection (a), a pub-
5 lic health officer shall give preference to individuals who
6 are trained in the provision of health care or in the control
7 of infectious diseases.

8 **“SEC. 2695F. LIMITATION WITH RESPECT TO DUTIES OF**
9 **MEDICAL FACILITIES.**

10 “The duties established in this subpart for a medical
11 facility—

12 “(1) shall apply only to medical information
13 possessed by the facility during the period in which
14 the facility is treating the victim for conditions aris-
15 ing from the emergency, or during the 60-day period
16 beginning on the date on which the victim is trans-
17 ported by emergency response employees to the facil-
18 ity, whichever period expires first; and

19 “(2) shall not apply to any extent after the ex-
20 piration of the 30-day period beginning on the expi-
21 ration of the applicable period referred to in para-
22 graph (1), except that such duties shall apply with
23 respect to any request under section 2695B(c) re-
24 ceived by a medical facility before the expiration of
25 such 30-day period.

1 **“SEC. 2695G. MISCELLANEOUS PROVISIONS.**

2 “(a) **LIABILITY OF MEDICAL FACILITIES, DES-**
3 **IGNATED OFFICERS, AND PUBLIC HEALTH OFFICERS.—**

4 This subpart may not be construed to authorize any cause
5 of action for damages or any civil penalty against any
6 medical facility, any designated officer, or any other public
7 health officer for failure to comply with the duties estab-
8 lished in this subpart.

9 “(b) **TESTING.—**This subpart may not, with respect
10 to victims of emergencies, be construed to authorize or re-
11 quire a medical facility to test any such victim for any
12 infectious disease.

13 “(c) **CONFIDENTIALITY.—**This subpart may not be
14 construed to authorize or require any medical facility, any
15 designated officer of emergency response employees, or
16 any such employee, to disclose identifying information
17 with respect to a victim of an emergency or with respect
18 to an emergency response employee.

19 “(d) **FAILURE TO PROVIDE EMERGENCY SERV-**
20 **ICES.—**This subpart may not be construed to authorize
21 any emergency response employee to fail to respond, or
22 to deny services, to any victim of an emergency.

23 “(e) **NOTIFICATION AND REPORTING DEADLINES.—**
24 In any case in which the Secretary determines that, wholly
25 or partially as a result of a public health emergency that
26 has been determined pursuant to section 319(a), individ-

1 uals or public or private entities are unable to comply with
2 the requirements of this part, the Secretary may, notwith-
3 standing any other provision of law, temporarily suspend,
4 in whole or in part, the requirements of this part as the
5 circumstances reasonably require. Before or promptly
6 after such a suspension, the Secretary shall notify the
7 Congress of such action and publish in the Federal Reg-
8 ister a notice of the suspension.

9 “(f) CONTINUED APPLICATION OF STATE AND
10 LOCAL LAW.—Nothing in this part shall be construed to
11 limit the application of State or local laws that require
12 the provision of data to public health authorities.

13 **“SEC. 2695H. INJUNCTIONS REGARDING VIOLATION OF**
14 **PROHIBITION.**

15 “(a) IN GENERAL.—The Secretary may, in any court
16 of competent jurisdiction, commence a civil action for the
17 purpose of obtaining temporary or permanent injunctive
18 relief with respect to any violation of this subpart.

19 “(b) FACILITATION OF INFORMATION ON VIOLA-
20 TIONS.—The Secretary shall establish an administrative
21 process for encouraging emergency response employees to
22 provide information to the Secretary regarding violations
23 of this subpart. As appropriate, the Secretary shall inves-
24 tigate alleged such violations and seek appropriate injunc-
25 tive relief.

1 **"SEC. 2695I. APPLICABILITY OF SUBPART.**

2 "This subpart shall not apply in a State if the chief
3 executive officer of the State certifies to the Secretary that
4 the law of the State is substantially consistent with this
5 subpart."

Calendar No. 182

111TH CONGRESS
1ST SESSION
S. 1793

A BILL

To amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS.

OCTOBER 15, 2009

Read twice and placed on the calendar

THE BROWN ACT

OPEN MEETINGS FOR
LOCAL LEGISLATIVE BODIES



2003

CALIFORNIA ATTORNEY
GENERAL'S OFFICE

THE --- BROWN --- ACT

OPEN MEETINGS FOR LOCAL LEGISLATIVE BODIES

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State of California
Office of the Attorney General
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Throughout California's history, local legislative bodies have played a vital role in bringing participatory democracy to the citizens of the state. Local legislative bodies - such as boards, councils and commissions - are created in recognition of the fact that several minds are better than one, and that through debate and discussion, the best ideas will emerge. The law which guarantees the public's right to attend and participate in meetings of local legislative bodies is the Ralph M. Brown Act.

While local legislative bodies generally are required to hold meetings in open forum, the Brown Act recognizes the need, under limited circumstances, for these bodies to meet in private in order to carry out their responsibilities in the best interests of the public. For example, the law contains a personnel exception based on notions of personal privacy, and a pending litigation exception based upon the precept that government agencies should not be disadvantaged in planning litigation strategy. Although the principle of open meetings initially seems simple, application of the law to real life situations can prove to be quite complex.

The purpose of this pamphlet is to provide a brief description of the Brown Act, along with a discussion of court decisions and opinions of this office that add to our understanding by applying it in specific factual contexts. We hope this pamphlet will assist both public officials and those who monitor the performance of local legislative bodies to minimize and resolve disputes over interpretations of the Brown Act. In recent years, both the California Supreme Court and the courts of appeal have recognized the benefit of pamphlets issued by our office. This recognition by the courts, along with many favorable comments from members of the public, strengthens our resolve to continue producing reliable informational materials on the Brown Act and other California laws. Publication of these materials constitutes a tradition of service that we value greatly.

Ideas and suggestions for future editions of this pamphlet are welcomed and should be addressed to the editor.

Sincerely,

BILL LOCKYER
Attorney General

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INTRODUCTION

This pamphlet concerns the provisions of the Ralph M. Brown Act, which govern open meetings for local government bodies. The Brown Act is contained in section 54950 et seq. of the Government Code. Accordingly, all statutory references in this pamphlet are to the Government Code unless otherwise noted. The pamphlet contains a table of contents, which may also serve as a topical outline for the reader. The pamphlet also includes a brief summary of the main provisions of the Brown Act, along with references to the appropriate Government Code sections and chapters of the text. The text includes a discussion of the law along with tips on how the law should be applied in particular situations. Numerous references are made to legal authorities throughout the text. A copy of the Brown Act in its entirety is set forth in the appendix to the pamphlet. Lastly, the pamphlet contains a table of authorities so that the reader can determine all of the places in the text where references are made to a particular authority.

In preparing this pamphlet, we relied on a variety of legal resources. Appellate court cases were consulted and are cited throughout the pamphlet. While most of the more significant cases are discussed, this pamphlet is not intended to be a compendium of all court cases in this area. In addition, we drew upon published opinions and unpublished letter opinions issued by this office. Attorney General opinions, unlike appellate court decisions, are advisory only and do not constitute the law of the state. However, with respect to the Brown Act, the courts have frequently adopted the analysis of Attorney General opinions, and have commented favorably on the service afforded by those opinions and this pamphlet. (*Bell v. Vista Unified School Dist.* (2000) 82 Cal.App.4th 672; *Freedom Newspapers v. Orange County Employees Retirement System* (1993) 6 Cal. 4th 821, 829.)

Published opinions are cited by volume and page number (e.g., 32 Ops.Cal.Atty.Gen. 240 (1958)). Unpublished letter opinions are cited as indexed letters by year and page number (e.g., Cal.Atty.Gen., Indexed Letter, No. IL 76-201 (October 20, 1976).) Published opinions are available through law libraries and some attorneys' offices. As a general rule, indexed letters are available only in the Office of the Attorney General. Copies may be obtained by a request to the Public Inquiry Unit of the Office of the Attorney General.

If you have specific questions or problems, the statutes, cases and opinions should be consulted. You also may wish to refer the matter to the attorney for the agency in question, a private attorney or the district attorney.

The pamphlet is current through January 2003 with respect to statutes, case law, and Attorney General opinions.

SUMMARY OF KEY BROWN ACT PROVISIONS

COVERAGE

PREAMBLE:

Public commissions, boards, councils and other legislative bodies of local government agencies exist to aid in the conduct of the people's business. The people do not yield their sovereignty to the bodies that serve them. The people insist on remaining informed to retain control over the legislative bodies they have created.	54950	Ch. I
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GOVERNING BODIES:

Includes city councils, boards of supervisors, and district boards. Also covered are other legislative bodies of local government agencies created by state or federal law.	54952(a)	Ch. I & II
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SUBSIDIARY BODIES:

Includes boards or commissions of a local government agency as well as standing committees of a legislative body. A standing committee has continuing subject matter jurisdiction or a meeting schedule set by its parent body. Less-than-a-quorum advisory committees, other than standing committees, are exempt.	54952(b)	Ch. II
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PRIVATE OR NONPROFIT CORPORATIONS OR ENTITIES:

Covered only if:

- | | | | |
|----|--|----------------|--------|
| a. | A legislative body delegates some of its functions to a private corporation or entity; or | 54952(c)(1)(A) | Ch. II |
| b. | If a legislative body provides some funding to a private corporation or entity and appoints one of its members to serve as a voting member of entity's board of directors. | 54952(c)(1)(B) | |

MEETING DEFINED

INCLUDES:

Any gathering of a quorum of a legislative body to discuss or transact business under the body's jurisdiction; serial meetings are prohibited.	54952.2	Ch. III
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EXEMPTS:

- | | | | |
|-----|---|----------------------------|---------|
| (1) | Individual contacts between board members and others which do not constitute serial meetings; | 54952.2(c)(1) | Ch. III |
| (2) | Attendance at conferences and other gatherings which are open to public so long as members of legislative bodies do not discuss among themselves business of a specific nature under the body's jurisdiction; | 54952.2(c)(2), (3) and (4) | |
| (3) | Attendance at social or ceremonial events where no business of the body is discussed. | 54952.2(c)(5) | |

LOCATIONS OF MEETINGS:

A body must conduct its meetings within the boundaries of its jurisdiction unless it qualifies for a specific exemption.	54954	Ch. IV
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TELECONFERENCE MEETINGS:

Teleconference meetings may be held under carefully defined conditions. The meeting notice must specifically identify all teleconference locations, and each such location must be fully accessible to members of the public.	54953	Ch. III
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PUBLIC RIGHTS

PUBLIC TESTIMONY:

Public may comment on agenda items before or during consideration by legislative body. Time must be set aside for public to comment on any other matters under the body's jurisdiction.	54954.3	Ch. IV & V
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NON-DISCRIMINATORY FACILITIES:

Meetings may not be conducted in a facility that excludes persons on the basis of their race, religion, color, national origin, ancestry, or sex, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase.	54953.2; 54961	Ch. V
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COPY OF RECORDING:

Public may obtain a copy, at cost, of an existing tape recording made by the legislative body of its public sessions, and to listen to or view the body's original tape on a tape recorder or viewing device provided by the agency.	54953.5	Ch. V
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PUBLIC VOTE:

All votes, except for those cast in permissible closed session, must be cast in public. No secret ballots, whether preliminary or final, are permitted.	54953(c)	Ch. VI
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CLOSED MEETING ACTIONS/DOCUMENTS:

At an open session following a closed session, the body must report on final action taken in closed session under specified circumstances. Where final action is taken with respect to contracts, settlement agreements and other specified records, the public may receive copies of such records upon request.	54957.1	Ch. IV, V & VI
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TAPING OR BROADCASTING:

Meetings may be broadcast, audio-recorded or video-recorded so long as the activity does not constitute a disruption of the proceeding.	54953.5; 54953.6	Ch. V
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CONDITIONS TO ATTENDANCE:

Public may not be asked to register or identify themselves or to pay fees in order to attend public meetings.	54953.3; 54961	Ch. V
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PUBLIC RECORDS:

Materials provided to a majority of a body which are not exempt from disclosure under the Public Records Act must be provided, upon request, to members of the public without delay.	54957.5	Ch. V
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REQUIRED NOTICES AND AGENDAS

REGULAR MEETINGS:

Agenda containing brief general description (approximately twenty words in length) of each matter to be considered or discussed must be posted at least 72 hours prior to meeting.	54954.2	Ch. IV
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SPECIAL MEETINGS:

Twenty-four hour notice must be provided to members of legislative body and media outlets including brief general description of matters to be considered or discussed.	54956	Ch. IV
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EMERGENCY MEETINGS:

One hour notice in case of work stoppage or crippling activity, except in the case of a dire emergency.	54956.5	Ch. IV
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CLOSED SESSION AGENDAS:

All items to be considered in closed session must be described in the notice or agenda for the meeting. A model format for closed-session agendas appears in section 54954.5. Prior to each closed session, the body must orally announce the subject matter of the closed session. If final action is taken in closed session, the body generally must report the action at the conclusion of the closed session.	54954.2; 54954.5; 54957.1 and 54957.7	Ch. IV
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AGENDA EXCEPTION:

Special procedures permit a body to proceed without an agenda in the case of emergency circumstances, or where a need for immediate action came to the attention of the body after posting of the agenda.	54954.2(b)	Ch. IV
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CLOSED-SESSION MEETINGS

PERSONNEL EXEMPTION:

The body may conduct a closed session to consider appointment, employment, evaluation of performance, discipline or dismissal of an employee. With respect to complaints or charges against an employee brought by another person or another employee, the employee must be notified, at least 24 hours in advance, of his or her right to have the hearing conducted in public.	54957	Ch. VI
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PUBLIC SECURITY:

A body may meet with law enforcement or security personnel concerning the security of public buildings and services.	54957	Ch. VI
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PENDING LITIGATION:

A body may meet in closed session to receive advice from its legal counsel concerning existing litigation, initiating litigation, or situations involving a significant exposure to litigation. The circumstances which constitute significant exposure to litigation are expressly defined in section 54956.9(b)(3).	54956.9	Ch. VI
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LABOR NEGOTIATIONS:

A body may meet in closed session with its negotiator to consider labor negotiations with represented and unrepresented employees. Issues related to budgets and available funds may be considered in closed session, although final decisions concerning salaries of unrepresented employees must be made in public.	54957.6	Ch. VI
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REAL PROPERTY NEGOTIATIONS:

A body may meet in closed session with its negotiator to consider price and terms of payment in connection with the purchase, sale, exchange or lease of real property.	54956.8	Ch. VI
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REMEDIES AND SANCTIONS

CIVIL REMEDIES:

Individuals or the district attorney may file civil lawsuits for injunctive, mandatory or declaratory relief, or to void action taken in violation of the Act.	54960; 54960.1	Ch. VII
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Attorneys' fees are available to prevailing plaintiffs.	54960.5	
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CRIMINAL SANCTIONS:

The district attorney may seek misdemeanor penalties against a member of a body who attends a meeting where action is taken in violation of the Act, and where the member intended to deprive the public of information which the member knew or has reason to know the public was entitled to receive.	54959	Ch. VII
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GOVERNMENT CODE

SECTION 54950-54963

54950. In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

54950.5. This chapter shall be known as the Ralph M. Brown Act.

54951. As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

54952. As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board,

commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

54952.1. Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

54952.2. (a) As used in this chapter, "meeting" includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

(b) Except as authorized pursuant to Section 54953, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body is prohibited.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person.

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local

agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

54952.6. As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location

shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction. The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.

54953.1. The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

54953.2. All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

54953.3. A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

54953.5. (a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30

days after the taping or recording. Any inspection of a video or tape recording shall be provided without charge on a video or tape player made available by the local agency.

54953.6. No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

54953.7. Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

54954. (a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a

legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of the superintendent of that district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

54954.1. Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds for invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

54954.2. (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an

agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision

(b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

54954.4. (a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes of 1986 in a complete, faithful, and uninterrupted manner.

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items

were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

(Subdivision (a) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)
or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and

title)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

54954.6. (a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed.

Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with

Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIIIIC or XIID of the California Constitution is not subject to the notice and hearing requirements of this section.

54955. The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

54955.1. Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of

hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

54956. A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

54956.5. (a) For purposes of this section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services

are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

54956.6. No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

54956.7. Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

54956.8. Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it

identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

54956.86. Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to Section 14087.3 of the Welfare and Institutions Code may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

54956.87. (a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulas or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (f), shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) Notwithstanding any other provision of law, the governing board of a health plan may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations by the health plan with providers of health care services concerning all matters related to rates of payment. The governing board may delete the portion or portions containing trade

secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(f) For purposes of this section, "health plan trade secret" means a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that also meets both of the following criteria:

(1) The secrecy of the information is necessary for the health plan to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product.

(2) Premature disclosure of the trade secret would create a substantial probability of depriving the health plan of a substantial economic benefit or opportunity.

54956.9. Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) Litigation, to which the local agency is a party, has been initiated formally.

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(3) For purposes of paragraphs (1) and (2), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not limited to, an

accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision (a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

54956.95. (a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5

(commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

54957. (a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b) (1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this subdivision shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline.

54957.1. (a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is

final, as specified below:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) 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 a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) 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, as specified below:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) 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 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.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) 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. The report shall identify the item approved and the other party or parties to the negotiation.

(b) Reports that are required to be made pursuant to this section

may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in paragraph (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

54957.2. (a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt

from public disclosure under Section 6253.5, 6254, 6254.7, or 6254.22.

(b) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(c) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

54957.6. (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an

officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

54957.7. (a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

54957.8. Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional drug law enforcement agency, or an advisory body of a multijurisdictional drug law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional drug law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

"Multijurisdictional drug law enforcement agency," for purposes of this section, means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, which provides drug law enforcement services for the parties to the joint powers agreement.

The Legislature finds and declares that this section is within the public interest, in that its provisions are necessary to prevent the impairment of ongoing law enforcement investigations, to protect witnesses and informants, and to permit the discussion of effective courses of action in particular cases.

54957.9. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

54957.10. Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan.

54958. The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

54960. (a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to tape record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to tape record its closed sessions and preserve the tape recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The tapes shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the tape is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session which has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency which has custody and control of the tape recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil

Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency which has custody and control of the recording.

(ii) An affidavit which contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications which are protected by the attorney-client privilege.

54960.1. (a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c) (1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, 54956, and 54956.5.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

54960.5. A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a legislative body of the local agency has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

54961. (a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every

local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

54962. Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

54963. (a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, "confidential information" means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grand jury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in Section

1102.5 of the Labor Code or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.
