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News Clerks Should Know:

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Clarifications to the Brown Act

SB 1732 – effective 1/1/2009

This bill prohibits a majority of the members of a legislative body from using a series of communications of any kind, directly or through intermediaries, to discuss deliberate or take action on any item of business that is subject to the Brown Act.

So what's new? This law was passed in response to an appellate court's holding that the Brown Act only prohibits serial meetings if the communication results in a "collect concurrence." Lawmakers feel that "discussions and deliberations" also fall under the Brown Act and, as a result, passed SB 1732 which clarifies that the Brown Act prohibits serial meetings to hear discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

This bill adds a provision specifying that the prohibition shall not be construed as preventing an employee or official of a local agency from engaging in separate conversations or communications outside of a Brown Act meeting with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member of the legislative body.

Additionally, the bill prohibits a local agency from discriminating between, or among, members of a legislative body with regard to accessing a writing of the body or agency. Bottom line: if you give it to one, give it to all.