

File No. \_\_\_\_\_

SOTF Item No. 4  
CAC Item No. \_\_\_\_\_

**SUNSHINE ORDINANCE TASK FORCE**  
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: May 2, 2012

Compliance and Amendments Committee

Date: \_\_\_\_\_

**CAC/SOTF**

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Completed by: Andrea Ausberry Date April 25, 2012

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

\*An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document is in the file.

# **SB 1003 – YEE**

## **BROWN ACT: DECLARATORY AND INJUNCTIVE RELIEF**

### **PROBLEM**

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The language currently in the Brown Act does not provide injunctive and declaratory relief for past actions.

The California Court of Appeal for the Fifth District in *McKee et al v. Tulare County Board of Supervisors*, No. F061146 highlights a clear need for an amendment to the Brown Act.

In *McKee v. County of Tulare*, the Court ruled that there could be no injunctive and declaratory relief for a past violation because the board appeared to stop violating the law after the lawsuit was filed. This decision invites the petitioners to initiate a new lawsuit if the board returns to its bad behavior, thereby creating the potential for an endless loop of violation followed by corrective behavior.

### **EXISTING LAW**

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The Ralph M. Brown Act contained in government code sections 54950-54963 governs open meetings for local government bodies. Under the Brown Act, local governments are required to ensure the access of the public to meetings by posting advance notice in a public area as well as disclosing any action taken during meetings. Agendas must include descriptions of all items to be discussed. Action generally cannot be taken on items that are not on the agenda. Written notice must be provided upon request. Any action taken during meetings must be disclosed.

### **BILL SUMMARY**

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This bill adds language to the current Brown Act to codify injunctive and declaratory relief for past violations. This will ensure open government by local government agencies and conform to language within the Bagley-Keene Act addressing the same issue.

SB 1003 establishes a procedure for filing an action regarding a Brown Act violation. A letter must be submitted to the body alleged to have violated the act within one year of the alleged violation. The agency would then have 30 days in which they may respond to the allegation before any legal action is taken.

### **SUPPORT**

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AFSCME  
California Newspaper Publishers Association  
Californians Aware  
California Teachers Association  
First Amendment Coalition

### **OPPOSITION**

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Association of California School Administrators  
Cathedral City  
Community College League of California  
City of Ventura  
League of California Cities

**Resolution in Support for SB 1003 (Yee) – Brown Act: Declaratory and Injunctive Relief**

Whereas, the San Francisco Sunshine Ordinance holds its foundation in the Ralph M. Brown Open Meetings Act and the California Public Records Act, and

Whereas, unlike the Bagley-Keene Open Meetings Act which governs California state government there are few consequences for violating open government laws at the local level, and

Whereas, The language currently in the Brown Act does not provide injunctive and declaratory relief for past actions, and

Whereas, The California Court of Appeal for the Fifth District in McKee et al v. Tulare County Board of Supervisors, No. F061146 highlights a clear need for an amendment to the Brown Act, therefore

Be it resolved, San Francisco Sunshine Ordinance Task Force wholeheartedly supports SB 1003, and

Be it resolved, San Francisco Sunshine Ordinance Task Force appreciates the insight and foresight by Senator Leland Yee and his staff in recognizing the import to extend this provision to local agencies, and

Finally, be it resolved, passage of SB 1003 will help maintain the chain of transparency and open government in the state of California.

