

ACTION BY THE COUNTY BOARD

The Monterey County Board of Education (County Board) shall act by a majority vote of all of the membership constituting the County Board, unless otherwise required by law.

An "action" by the County Board means: [Government Code (GC) 54952.6]

1. A collective decision by a majority of the County Board members
2. A collective commitment or promise by a majority of the County Board members to make a positive or negative decision
3. A vote by a majority of the County Board members when sitting as the County Board upon a motion, proposal, resolution, order, or ordinance

The County Board shall not take action by secret ballot, whether preliminary or final. [GC 54953]

Actions taken by the County Board in open session shall be recorded in the County Board minutes. [Education Code (EC) 1015]

Action on Non-Agenda Items

After publicly identifying the item, the County Board may take action on a subject not appearing on the posted meeting agenda under any of the following conditions: [GC 54954.2]

1. When two-thirds of the members present, or if less than two-thirds of the members are present, then by a unanimous vote of all members present, determine that the need to take immediate action came to the County Board's attention after the agenda was posted.
2. When a majority of the County Board determines that an emergency situation exists, as defined for emergency meetings pursuant to GC 54956.5.
3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier.

Actions Requiring a Two-Thirds (5/7) Vote of the Entire County Board

1. Resolution declaring intention to sell or lease real property. [EC 17466]

2. Resolution declaring intent of County Board to convey or dictate property to the state or any political subdivision for the purposes specified in Education Code 17556. [EC 17557]
3. Resolution authorizing and directing the County Board President to execute a deed of dedication or conveyance of property to the state or political subdivision. [EC 17559]
4. Lease, for up to three months, school property which has a residence on it and which cannot be developed for Monterey County Office of Education (MCOE) purposes because funds are unavailable. [EC 17481]
5. Request for temporary borrowing pursuant to GC 53820-53833, to pay obligations incurred before the receipt of income for the fiscal year sufficient to meet the payments. [GC 53821]

Note: Although a two-thirds vote and the approval of the County Auditor and Treasurer are required for temporary borrowing before receipt of fiscal income under GC 53820-53833, only a majority of the County Board is required for temporary borrowing pursuant to GC 53850-53858.

6. Upon complying with GC 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the MCOE. [GC 53094]
7. Resolution to transfer excess local funds from a deferred maintenance fund when state funds are insufficient to match local funds being held in the deferred maintenance fund. [EC 17582, 17583]
8. Resolution of necessity to proceed with an eminent domain action and, if the County Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use. (A greater vote may be required by statute, charter, or ordinance.) [Code of Civil Procedure 1245.240, 1245.245]

Actions Requiring a Two-Thirds (4/4, 4/5, 4/6, 5/7) Vote of the County Board Members Present at the Meeting

1. Determination that there is a need to take immediate action and that the need for action came to the County Board's attention after the posting of the agenda. If less than two-thirds of the County Board members are present at the meeting, a unanimous vote of all members present is required. [GC 54954.2]

2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the County Board members are present at the meeting, a unanimous vote of all members present is required. [GC 54956.5]
3. Motion to extend the debate or limit or close debate by calling for the question or requesting a vote. [RONR]

Note: RONR denotes Robert's "Rules of Order, Newly Revised." When not in conflict with any applicable law, rule or regulation, the provisions of Robert's Rules of Order, Newly Revised, shall constitute the parliamentary processes of the County Board.

4. Motion to reduce or increase the number of length of speeches permitted or to require that debate be closed at a specified time. [RONR]
5. Motion to establish, revise, or abolish County Board policies and bylaws. [RONR]
6. Motion to close nominations for County Board officers. [RONR]
7. Motion to rescind or amend an action adopted by the County Board at a previous meeting. [RONR]
8. Motion to modify or suspend the parliamentary rules. [RONR]
9. Motion to remove County Board officers. [RONR]

Actions Requiring a Two-Thirds (5/7) Vote of the Monterey County Committee on School District Organization Present at the Meeting:

Upon request of the County Board, the Monterey County Committee on School District Organization (County Committee) may either change the boundaries of any or all the trustee areas or to increase or decrease the number of members of the County Board or both. [EC 1002]

Special Note: Following each decennial federal census, the County Committee shall adjust the boundaries of any or all of the trustee areas of the County Board. These adjustments may be made by a majority vote of the County Committee. Furthermore, if any of the district governing boards fails to adjust the boundaries before the first day of March of the year following the year in which the results of each decennial census are released, the County Committee shall do so before the 30th day of April of the same year.

The governing board of the school district or community college district shall reimburse all reasonable costs incurred by a County Committee in adjusting the boundaries

pursuant to adjusting their trustee areas as described in the previous paragraphs. [EC 5019.5]

Action Requiring a Four-Fifths (6/7) Vote of the Entire County Board Members

1. Resolution for borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of MCOE's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing. [GC 53822, 53824]
2. Resolution to approve the expenditure and transfer of necessary funds and use of property to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense. [GC 53790-53792]
3. Resolution for borrowing, between July 15 and August 30 of any fiscal year, up to 25 percent of the estimated income and revenue to be received by MCOE during that fiscal year from apportionments based on the average daily attendance (ADA), for the preceding school year, of schools operated by the County Board [GC 53823, 53824]

Action Requiring a Unanimous Vote of the Entire County Board

1. Any resolution authorizing and prescribing the terms of a community lease for extraction of gas. [EC 17510-17511]

Actions Requiring a Unanimous Vote of the County Board Members Present at the Meeting

1. Determination that surplus property is not worth more than \$2,500, and the subsequent authorization of a private sale of such property without advertisement [EC 17546]
2. Determination that the value of surplus property would not defray the cost of arranging its sale, and the subsequent authorization to dispose of such property in the local dump or donate it to a charitable organization [EC 17546]

Challenging Board Actions

The district attorney's office or any interested person may file an action in court to stop or prevent the County Board's violation or threats of violations of the Brown Act, to determine the applicability of the Brown Act to ongoing or future threatened

County Board actions, to determine the validity, under California or federal law, of any County Board rule or action to penalize any of its members or otherwise discourage the member's expression, or to compel the County Board to audio record its closed sessions because of its violation of any applicable GC provision. [GC 54960]

The district attorney or any interested person may present a demand that the County Board cure and correct a County Board action which he/she alleges is in violation of law regarding any of the following: [GC 54960.1]

1. Open meeting and teleconferencing [GC 54953]
2. Agenda posting [GC 54954.2]
3. Closed session item descriptions [GC 54954.5]
4. New or increased tax assessments [GC 54954.6]
5. Special meetings [GC 54956]
6. Emergency meetings [GC 54956.5]

Any demand to "cure and correct" an alleged violation shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the County Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of GC 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. [GC 54960. 1]

Within 30 days of receiving the demand, the County Board shall do one of the following: [GC 54960. 1]

1. Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.
2. Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.
3. Take no action. If the County Board takes no action within 30-day review period, its inaction shall be considered a decision not to cure or correct the action. [GC 54960.1]

In addition, the district attorney's office or any interested party may file an action in court to determine the applicability of the Brown Act to any past County Board action not specified in GC 54960.1, if the following conditions are met: [GC54960.2]

1. Within nine months of the alleged violation, a cease and desist letter is submitted to the County Board, clearly describing the past action and the nature of the alleged violation.
2. The time for the County Board to respond has expired and the County Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

Legal Reference:

EDUCATION CODE

1015 Recording votes
1042 Power to hold and convey real property
1047 Eminent domain
5019.5 Trustee areas; adjustment of boundaries by governing board
17466 Declaration of intent to sell or lease real property
17481 Lease of property with residence for non-district purposes
17510-17511 Resolution requiring unanimous vote of all members constituting board
17546 Private sale of personal property
17556-17561 Dedication of real property
35164 Vote requirements

CODE OF CIVIL PROCEDURE

1245.240 Eminent domain vote requirements
1245.245 Eminent domain, resolution adopting different use

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities
53724 Parcel tax resolution requirements
53790-53792 Exceeding the budget
53820-53833 Temporary borrowing
53850-53858 Temporary borrowing
54950-54963 The Ralph M. Brown Act; especially:
54952.6 Action taken- definition
54953 Meetings to be open and public; attendance; secret ballots
54960-54960.5 Actions to prevent violations
65352.2 Coordination with planning agency

COURT DECISIONS

Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors {2003} 112 CalApp.4th 1313
McKee v. Orange Unified School District (2003) 110 CalApp.4th 1310
Bell v. Vista Unified School District (2002) 82 CalApp.4th 672
Boyle v. City of Redondo Beach {1999} 70 cal.App.4th 1109

Adopted: 01/04/17