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AB 992 – Clarifies That The Brown Act Does Not Prohibit Elected Officials From Discussing With The Public Matters Within The Agency’s Jurisdiction On Social Media

AB 992 is a bill intended to bring the provisions of the Brown Act more in line with the realities of political discourse in the age of social media.

Currently, the Brown Act generally requires a legislative body of any public agency noticed their meetings in advance and open and make them accessible to the public. The Act defines a “meeting” as any gathering, including by telecommunication, of a majority of the members of any legislative body to hear, discuss, deliberate, or take action on any item that is within the jurisdiction of that agency. The Brown Act also prohibits members of legislative bodies from engaging in “serial communications,” whereby a majority of the members of the legislative body discuss, deliberate, or take action by means of a series of communications between themselves, either directly or through intermediaries. In recent years, these provisions have raised questions about what type of activity elected officials can engage in on social media, which – if the Brown Act is read strictly – could create a number of potential pitfalls for elected officials.

AB 992 adds a new exception to the ban on “serial communications,” stating that it does not prevent a member of a legislative body from engaging in conversations on a social media platform that is open and accessible to the public if the purpose of those communications are as follows:

To answer questions, provide information to the public, or solicit information from the public; and

As long as a majority of the members of that legislative body do not discuss agency business of a specific nature among themselves.

The bill specifically prohibits a member of a legislative body from responding directly to any communication made, posted, or shared by another member of that body regarding any matter within the agency’s jurisdiction.

This provision will remain in effect until January 1, 2026, at which time it will automatically sunset unless the Legislature extends it further.

(AB 992 amends Section 54952.2 of the Government Code.)

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