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Commission Recommends Adjusting California's Open Meeting Acts to Improve Governing, Retaining Existing Executive Branch Ex Parte Policies

Millions of Californians live with consequences of poorly-informed government decisions due to laws that discourage elected and appointed officials from seeking their colleagues' expertise outside public meetings, the Little Hoover Commission stated Thursday in a report recommending changes to the state's open meeting acts.

The Commission cited widely-held perceptions that public decision-making is faltering statewide as adhering to strict transparency rules increasingly trumps quality policy-making. The bipartisan citizens' Commission, in a new report, *Conversations for Workable Government*, proposes slight modifications to laws that currently prevent decision-makers from talking informally with colleagues about general policy issues.

"Ten months of review and consultation with elected officials, consumer groups and good government advocates convinced the Commission that modest changes to the law are necessary to advance the public good," said Pedro Nava, Chairman of the Little Hoover Commission.

Simultaneously, the Commission understands the public distrust of government, which was further fueled during the course of this study by front-page allegations of improper and potentially illegal ex parte communications between state regulators and California utilities. The Commission recommends keeping the existing and varied ex parte communication policies throughout state government, while also considering possible additional disclosure requirements and enforcement.

The Commission reviewed state government's rules for closed-door ex parte conversations with lobbyists, as well as 2008 changes to tighten the Ralph M. Brown Act for local government and similar 2009 changes incorporated into more complex state governing institutions through the Bagley-Keene Open Meeting Act. Among its findings regarding California's open government laws and practices:

- The 2008 and 2009 changes to the state's open meeting acts have hindered government decision-making processes and created less transparency instead of more. Public meetings are increasingly scripted as officials are afraid to thoroughly discuss issues in public and more decision-making is delegated to staffers who are neither appointed nor elected.

- The inability of decision-makers to talk informally about general policy issues or learn from one another has isolated them, reduced their collective understanding of issues and opened them to greater manipulation out of public view. Lobbyists who can freely talk with every decision-maker in advance of votes, frequently know more about their collective thinking than decision-makers themselves and use it to advantage for their clients and often to the detriment of the public.
- Government attorneys, aiming to ward off open meeting act lawsuits that are commonly used as wedges to unravel controversial compromises or multibillion-dollar decisions, narrowly interpret the state's broadly-defined open meeting acts, making elected and appointed officials fearful of talking with one another or even being seen together outside public meetings.

“Californians deserve transparency when government officials make decisions that affect their lives. Yet we don’t want decision-makers handcuffed by rules that deny them the best information available,” said Mr. Nava.

“We don’t want the cure to kill the patient. Sometimes the best of intentions bring about unintended consequences. The responsible thing to do is to fix it,” he said.

The Little Hoover Commission is a bipartisan and independent state agency charged with recommending ways to improve the efficiency and effectiveness of state programs. The Commission’s recommendations are submitted to the Governor and the Legislature for their consideration and action. For a copy of the report, visit the Commission’s website: www.lhc.ca.gov.