

**WHAT’S HAPPENING IN SACRAMENTO:**

**SENATE BILL 563 AND ACTION WITHOUT A MEETING**

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Senate Bill 563, which will drastically change the way boards of directors of homeowners association conduct business in executive session, has been signed into law by Governor Jerry Brown and becomes effective on January 1, 2012. Dubbed the “action without a meeting” law, SB 563 was authored by the chair of the Senate Housing Committee and was marketed to the Legislature as a “transparency versus secret meetings” bill. In the hearings to discuss the bill, it was asserted that some boards met without notifying members of the time, place, and agenda items, thus undermining the board’s transparency to the membership.

Essentially, the new law will prohibit the board of directors of a common interest development from meeting without notice to members. Existing law requires the posting of an agenda as well as notice of the time, place, and agenda of a meeting of the board of directors to be given to the members of the association at least four days prior to the meeting, except as specified. SB 563 will now require boards of directors to provide notice of a meeting that will be held solely in executive session to members of the association at least two days prior to the meeting. The new legislation also provides that notice of an executive session meeting may be given electronically to a member who consents to such notice.

The law will also prohibit boards from conducting meetings via electronic transmissions like e-mail, except in emergency circumstances. An “emergency” situation exists if there are circumstances that could not have been reasonably foreseen by the board, that require immediate attention and possible action by the board, and that, of necessity, make it impracticable to provide notice to the members. This exception was inserted at the urging and lobbying of the Community Associations Institute’s California Legislative Action Committee, of which GBF attorneys Elizabeth French and Holly Amaya are part. If a Board votes on an item of business by email under emergency circumstances, all board members must file their written consent to the email action with the meeting minutes.

The legislation will permit meetings to be conducted by teleconference, provided that the notice specify at least one physical location (such as the clubhouse or property manager’s office) where members of the association may attend and listen in on the meeting. Additionally, at least one member of the board of directors must be present at that location, which will obviously prove problematic in communities where directors may live onsite for only part of the year.

Finally, SB 563 will require associations to provide agendas for meetings held in executive session to the membership, and will delete provisions allowing boards to consider any “proper matter” at a meeting that has not been designated as an action item for the meeting.

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