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OPINION	:	No. 79-811
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of	:	October 31, 1979
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SUBJECT: NOTICE OF MEETING REQUIREMENT—Section 54956 of the Government Code does not require the legislative body of a special district to give the 24-hour notice of a special meeting to the local newspaper unless the newspaper has requested such notice in advance. The charge for mailed notice, pursuant to section 54954.1 of the Government Code, is to be based on the estimated cost of providing such a service.

The Honorable Phillip D. Wyman, Assemblyman, Thirty-Fourth District, has requested an opinion on the following questions:

1. Under the provisions of section 54956 of the Government Code, must the legislative body of a special district give the 24-hour notice of a special meeting to the local newspaper of general circulation without a written request having been submitted in advance by the newspaper for such notice?

2. Under the provisions of section 54954.1 of the Government Code, what would be considered a reasonable charge for the mailing of notice of meetings as specified therein?

CONCLUSIONS

1. Section 54956 of the Government Code does not require the legislative body of a special district to give the 24-hour notice of a special meeting to the local newspaper of general circulation unless the newspaper has requested such notice in advance.

2. What would constitute a “reasonable charge” within the meaning of section 54954.1 of the Government Code is essentially a factual question. The estimated cost of providing such service predicated upon any reasonable cost accounting basis would satisfy the provisions of the section.

ANALYSIS

The Ralph M. Brown Act, contained in sections 54950–54961 of the Government Code,¹ generally provides that legislative bodies, as defined therein, of local agencies, as defined therein, must hold their meetings open to the public. “Local agency” includes special districts (§ 54951).

As to “regular meetings” of a local agency, the act generally provides that the time for holding them shall be specified by ordinance, resolution, or other appropriate rule (§ 54954). That specification essentially acts as a notice of such meetings for the public.² As to special meetings of a local agency, section 54956, the section which is the subject of the first question presented herein, provides:

“A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, *by delivering personally or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least 24 hours before the time of such meeting as specified in the notice.* The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the legislative body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it

¹ All section references are to the Government Code unless otherwise indicated.

² But see section 54954.1 with respect to “districts” *infra*.

convenes.” (Emphasis added.)

The first question presented is whether the legislative body of a special district must give the 24-hour notice provided for by this section to the local newspaper of general circulation without a written request having been submitted in advance to the district.

The statute is plain and unambiguous in its language. It states that the 24-hour notice of a special meeting must be given “to each local newspaper of general circulation, radio or television station requesting notice in writing.”³ The section nowhere specifies nor requires that such notice be given without such written request. The applicable rules of construction in this type of case were set forth recently by the California Supreme Court in *People v. Belleci* (1979) 24 Cal. 3d 879, 884 as follows:

“It is settled that “‘We are required to give effect to statutes ‘according to the usual, ordinary import of the language employed in framing them.’ [Citations.]” (*Palos Verdes Faculty Assn. v. Palos Verdes Peninsula Unified Sch. Dist.* (1978) 21 Cal. 3d 650, 658 [147 Cal. Rptr. 359, 580 P.2d 1155].) Stated otherwise, ‘When statutory language is thus clear and unambiguous there is no need for construction, and courts should not indulge in it.’ (*Solberg v. Superior Court* (1977) 19 Cal. 3d 182, 198 [137 Cal. Rptr. 460, 561 P.2d 1148]; accord, *People v. Boyd* (1979) 24 Cal. 3d 285, 294 [155 Cal. Rptr. 367, 594 P.2d 484]; *Great Lakes Properties, Inc. v. City of El Segundo* (1977) 19 Cal. 3d 152, 155 [137 Cal. Rptr. 154, 561 P.2d 244].)

“We have declined to follow the plain meaning of a statute only when it would inevitably have frustrated the manifest purposes of the legislation as a whole or led to absurd results. (See, e.g., *Younger v. Superior Court (Mack)* (1978) 21 Cal. 3d 102, 113–114 [145 Cal. Rptr. 674, 577 P.2d 1014]; *Silver v. Brown* (1966) 63 Cal. 2d 841, 845 [48 Cal. Rptr. 609, 409 P.2d 689].) Neither consequence is threatened here.”

Initially, we note that both the courts and this office, in discussing section 54956, have done so on the assumption that the media must request notice to be entitled thereto. (See *Torres v. Board of Commissioners* (1979) 89 Cal. App. 3d 545, 551; 61 Ops. Cal. Atty. Gen. 323, 325 fn. 2 (1978); 32 Ops. Cal. Atty. Gen. 240, 245 (1958).) No reported case not opinion of this office has held or even suggested that a newspaper is entitled to notice of a special meeting pursuant to section 54956 if it has not requested such notice.

³ In 53 Ops. Cal. Atty. Gen. 245 (1970), this office concluded that the notice to the media must be actual delivery at least 24 hours in advance of the special meeting; that mere mailing of the notice 24 hours in advance was not sufficient.

Thus, we need only determine whether the failure to give such notice falls within the exceptions to the “plain meaning rule” of statutory construction discussed by the Court above.

The basic inquiry would appear to be what consequences or results would follow where no newspaper or other form of the media has requested notice of special meetings and hence receives none. As to special districts, we note that they are required to give written notice of all regular and special meetings to all property owners who have filed a written request therefor (§ 54954.1).⁴ Thus, the main consequence would be that the media might not know of the meeting, and hence might not have a representative present to observe and report upon the proceedings. However, the media, whether it be a newspaper, radio station or television station may protect itself against such a consequence by simply filing a request pursuant to section 54956. Thus, the consequences which follow from the failure to *automatically* notify all newspapers, and radio and television stations in the jurisdiction (which in a metropolitan area could be a major undertaking) can hardly be said to be “absurd” so as to require a deviation from the plain meaning of the statute.

Furthermore, we do not believe that to follow the plain meaning of the statute would frustrate the manifest purposes of the legislation. The manifest purpose of the legislation appears to be to permit, but not require, that the media have an opportunity to be present at

⁴ Section 54954.1, which is limited to districts, and thus is not applicable to other local agencies, provides:

“The legislative body of any district which is subject to the provisions of this chapter shall give mailed notice of every regular meeting, and any special meeting which is called at least one week prior to the date set for the meeting, to any owner of property located within the district who has filed a written request for such notice with the legislative body. Any mailed notice required pursuant to this section shall be mailed at least one week prior to the date set for the meeting to which it applies except that the legislative body may give such notice as it deems practical of special meetings called less than seven days prior to the date set for the meeting.

“Any request for notice filed pursuant to this section shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for notice shall be filed within 90 days after January 1 of each year. Any request for notice, or renewal request, filed pursuant to this section shall contain a description of the property owned by the person filing the request. Such description may be in general terms but shall be sufficient enough to readily identify such property.

“The legislative body may establish a reasonable annual charge for sending such notice based on the estimated cost of providing such a service.

The Ralph M. Brown Act does not contain a similar provision applicable to other local agencies.

special meetings of legislative bodies, and report thereon as they see fit. Apparently the Legislature struck a balance between automatic notice to the media and no notice at all. Having struck such a balance, it then placed the burden upon the media to take the initiative to request such notice. Had the Legislature intended that the media be automatically notified of special meetings, it could have easily omitted from the statute the words “requesting notice in writing.”

Finally, that the Legislature intended what it said in section 54956 with respect to requiring the media to request notice of special meetings is also supported by and manifest from a recent addition to the Ralph M. Brown Act. Section 54956.5 is added to the act by Chapter 223, Statutes of 1979. It provides with respect to emergency meetings of a local agency as follows:

“In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold a special meeting without complying with the 24-hour notice requirement of Section 54956.

“For purposes of this section, ‘emergency situation’ means any of the following:

“(a) Work stoppage or other activity which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

“(b) Crippling disaster which severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

“However, each local newspaper of general circulation and radio or television station which has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the special meeting by telephone and shall exhaust all telephone numbers provided in the most recent request of such newspaper or station for notification of special meetings. In the event that telephone services are not functioning the notice requirements of this section shall be deemed waived, and the legislative body, or designee thereof, shall notify such newspapers, radio stations, or television stations of the fact of the holding of the special meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

“Notwithstanding the provisions of Section 54957, the legislative body shall not meet in executive session during a meeting called pursuant to this section.

“All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

“The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee therefore, notified or attempted to notify, a copy of the roll call vote, and any actions taken at such meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.” (Emphasis added.)

It is seen that in this new section, the Legislature has perpetuated in clear and unambiguous terms the requirements of section 54956 that the media must have requested notice of special meetings in advance to be entitled thereto. Had it intended that the “patent section,” section 54956, be read other than as written, it presumptively would have cast section 54956.5 in different language.

Accordingly, it is concluded that the legislative body of a local district is not required to give the local newspaper of general circulation notice pursuant to section 54956 unless the newspaper has requested such notice.

2. The second question presented is what would constitute a “reasonable charge” within the meaning of section 54954.1 for the mailed notice of regular and special meetings of “districts” to requesting property owners. Section 54954.1 is set forth in full at note 4, *supra*. It states as pertinent that “[t]he legislative body may establish a reasonable annual charge for sending such notice based on the estimated cost of providing such service.”

Our research has disclosed no case law nor opinions of this office which would answer this question. However, it is our opinion that the answer thereto is essentially a factual question and is essentially found in the language of the statute itself—that is, the charge is to be based upon “the estimated cost of providing such a service.” It would appear that any “estimate” which has a reasonable cost accounting basis would satisfy the provisions of the section.
