

Date of Hearing: May 19, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 339 (Lee) – As Amended May 4, 2021

Policy Committee: Local Government Vote: 7 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill makes changes to the Ralph M. Brown Act (Brown Act). Specifically, this bill,

- 1) Requires, until December 31, 2023, all open and public meetings of a city council or a county board of supervisors that governs a jurisdiction containing least 250,000 people to include an opportunity for members of the public to attend via a telephonic option or an internet-based service option.
- 2) Requires all open and public meetings to include an in-person public comment opportunity, except in specified circumstances during a declared state or local emergency.
- 3) Requires all meetings to provide the public with an opportunity to comment on proposed legislation in person and remotely via a telephonic or an internet-based service option.

FISCAL EFFECT:

Estimated costs to cities and counties, likely in the low millions of dollars statewide, to comply with the bill's provisions. These costs include one-time information technology (IT) investments and ongoing costs for additional staff, licensing and IT support. Each of the 26 counties and 15 cities covered by this bill is likely to incur costs in the low hundreds of thousands to comply.

However, these costs are not reimbursable by the state pursuant to Proposition 42, passed by the voters in 2014, which requires all local governments to comply with the Brown Act, but also eliminated reimbursement to local agencies for the costs of complying.

COMMENTS:

- 1) **Purpose.** According to the author:

Public meetings were able to quickly adapt to changing dynamics during the pandemic. While on one hand, meetings have expanded access to people who wouldn't ordinarily be able to participate such as working families, COVID-19 has also exacerbated existing barriers that prevent people from participating in one of our democracy's greatest features – public discourse.

- 2) **Background.** The Brown Act generally requires meetings to be noticed in advance, including the posting of an agenda, and generally requires meetings to be open and accessible to the public. The Brown Act also generally requires members of the public to have an

opportunity to comment on agenda items, and generally prohibits deliberation or action on items not listed on the agenda.

The Brown Act allows local agencies to use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding must comply with all requirements of the Brown Act and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding. Teleconferencing may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting must be taken by rollcall.

If a legislative body of a local agency elects to use teleconferencing, it must post agendas at all teleconference locations and protect the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location must be identified in the notice and agenda of the meeting or proceeding, and each teleconference location must be accessible to the public.

During the teleconference, at least a quorum of the members of the legislative body must participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, with exceptions. The agenda must provide an opportunity for members of the public at each teleconference location to address the legislative body directly pursuant to the Brown Act's provisions governing public comment.

- 3) **Executive Order N-29-20.** In March of 2020, the Governor issued Executive Order N-29-20, which authorized local agencies to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. The executive order waived all requirements in the Brown Act expressly or impliedly requiring the physical presence of members, or of the public, as a condition of participation in or quorum for a public meeting. This bill seeks to continue the practice set forth in this executive order.
- 4) **Proposition 42.** Proposition 42 was passed by voters on June 3, 2014, and requires all local governments to comply with the Public Records Act and the Brown Act and with any subsequent changes to those acts. Proposition 42 also eliminated reimbursement to local agencies for costs of complying with the Public Records Act and the Brown Act.
- 5) **Arguments in Support.** Leadership Counsel for Justice & Accountability and ACLU California Action, sponsors of this bill, and a large coalition of supporters, want to reduce the impediments to participation in the government decision-making process. For rural residents, people without access to transportation, people with disabilities and seniors, commuting to public meetings is effectively impossible.
- 6) **Arguments in Opposition.** A coalition of local government associations, including the League of California Cities, the California State Association of Counties, the California Special Districts Association, the California School Boards Association, and others, worry about the costs, especially technology costs, to local agencies to implement this bill.