

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 339 (Lee)
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Fiscal: Yes
Urgency: No
AWM

SUBJECT

Local government: open and public meetings

DIGEST

This bill requires, until December 31, 2023, that city councils and boards of supervisors in jurisdictions with over 250,000 residents provide both in-person and teleconference options for the public to attend their meetings.

EXECUTIVE SUMMARY

The Ralph M. Brown Act (the Brown Act) protects public access to meetings of the legislative bodies of local agencies. The Brown Act currently permits legislative bodies to provide a teleconference option for attending public meetings, subject to certain requirements for establishing a quorum, providing notice, posting agendas, and permitting members of the public to attend at any teleconferencing location. During the COVID-19 crisis, the need for social distancing made the usual practices for public meetings – in particular, having people group together in indoor spaces – impossible to continue. Governor Gavin Newsom, as part of a slew of emergency orders issued in response to the pandemic, suspended many of the Brown Act’s requirements for teleconferenced meetings and allowed local legislative bodies to conduct meetings via remote means, either telephonic or with streaming video.

Now that some pandemic regulations have begun to loosen, the author of this bill wants to take steps to expand the public’s access to local agency meetings via in-person and teleconference options. This bill requires, in cities or counties with over 250,000 residents, the city council or county board of supervisors to provide the public open and public meetings via a two-way telephonic or internet-based option; if the local agency has, as of June 15, 2021, provided a video streaming option, it must continue to do so. The bill provides that the local agency must also continue to provide an in-person opportunity to comment unless there are laws prohibiting in-person meetings during a state of emergency. The bill’s requirements will sunset on December 31, 2023.

This bill is sponsored by ACLU California Action, and is supported by a wide range of public interest groups, media organizations, labor organizations, and 24 local elected officials and agency board members. It is opposed by a number of city and county agencies. This bill was passed by the Senate Governance and Finance Committee with a vote of 5-0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Affirms that the people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny. (Cal. Const., art. I, § 3(b)(1).)
- 2) Establishes the Brown Act, which secures public access to the meetings of public commissions, boards, councils, and agencies in the state. (Gov. Code, tit. 5, div. 2, pt. 1, ch. 9, §§ 54950 et seq.)
- 3) Defines, for purposes of the Brown Act, the following relevant terms:
 - a) A "local agency" is a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or any other local public agency. (Gov. Code, § 54951.)
 - b) A "legislative body" is the governing board of a local agency or any other local body created by state or federal statute; a commission, committee, board, or other body of a local agency, as specified; a board, commission, or other multimember body that governs a private corporation, limited liability company, or other entity that is either created by an elected legislative body to exercise delegated authority or receives funds from a local agency and includes a member of the legislative body of the local agency; or the lessee of any hospital leased pursuant to Health and Safety Code section 21131, where the lessee exercises any material authority delegated by the legislative body. (Gov. Code, § 54952.)
- 4) Requires that all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in the Brown Act. (Gov. Code, § 54953.)
- 5) Authorizes the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law, provided that the teleconferenced

meeting complies with all of the following conditions and all otherwise applicable laws:

- a) Teleconferencing, as authorized, 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 shall be by rollcall. (Gov. Code, § 54953(b)(2).)
 - b) If the legislative body elects to use teleconferencing, it must post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or in the public appearing before the legislative body of the local agency. (Gov. Code, § 54953(b)(3).)
 - c) Each teleconferencing location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. (Gov. Code, § 54953(b)(3).)
 - d) During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercised jurisdiction, except as provided in 6). (Gov. Code, § 54953(b)(3).)
 - e) The agenda shall provide an opportunity for members of the public to address the legislative body directly, as the Brown Act requires for in-person meetings, at each teleconference location. (Gov. Code, § 54953(b)(3).)
 - f) For purposes of these requirements, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. (Gov. Code, § 54953(b)(4).)
 - g) The local agency may provide the public with additional teleconference locations. (Gov. Code, § 54953(b)(4).)
- 6) Provides an exception to the teleconferencing quorum requirements as follows:
- a) If a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.
 - b) This exception may not be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. (Gov. Code, § 54953(d).)

- 7) Requires every agenda for a regular meeting to provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public before or during the legislative body's consideration on that item, and permits the legislative body of a local agency to adopt reasonable regulations to carry out this requirement, including regulations to limit the total amount of time allotted for public testimony on particular issues and for each individual speaker. (Gov. Code, § 54954.3.)

Existing executive orders:

- 1) Proclaim a State of Emergency to exist in California as a result of the threat of COVID-19. (Governor's Proclamation of a State of Emergency (Mar. 4, 2020).)
- 2) Alter the teleconferencing requirements of the Brown Act, until September 30, 2021, as follows:
 - a) A local legislative body, notwithstanding the Brown Act, and subject to the notice and accessibility requirements set forth below, may hold public meetings via teleconferencing and make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body.
 - b) All requirements in the Brown Act expressly or impliedly requiring the physical presence of members, the clerk, or other personnel of the body, or of the public, as a condition of participation in or quorum for a public meeting are waived, including:
 - i. The requirement that local bodies notice each teleconference location from which a member will be participating in a public meeting.
 - ii. The requirement that each teleconference location be accessible to the public.
 - iii. The requirement that members of the public may address the body at each teleconference location.
 - iv. The requirement that state and local bodies post agendas at all teleconference locations.
 - v. The requirement that, during teleconference meetings, at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.
 - c) A local legislative body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically in accordance with the below requirements will have satisfied any requirement for public attendance and comment, and need not make available any physical location from which the public may observe the meeting and offer comment:
 - i. Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with

disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; this procedure must be advertised each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to the notice requirements below.

- ii. Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Brown Act, and using the means otherwise prescribed by the Brown Act.
 - iii. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. In any instance where there is a change in such means of public observation and comment, a body may satisfy this requirement by advertising such means using the most rapid means of communication available at the time within the meaning of the Brown Act, which may include posting such means on the body's website.
 - d) These measures will remain in place during the period in which state or local public health officials have imposed or recommended social distancing measures.
 - e) All local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as possible to the provisions of the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings. (Governor's Exec. Order No. N-25-20 (Mar. 12, 2020); Governor's Exec. Order No. N-29-20 (Mar. 17, 2020); Governor's Exec. Order No. N-08-21 (Jun. 11, 2021).)
- 3) Authorize, notwithstanding the Brown Act's prohibition on members of a legislative body from meeting or taking action on a matter within the subject matter of the legislative body outside a meeting authorized by the Brown Act, members of a local legislative body to receive updates relevant to the declared emergency from federal, state, and local officials, and to ask questions of those officials, in order for members of the legislative body to stay apprised of emergency operations and the impact of the emergency on their constituents. (Governor's Exec. Order No. N-35-20 (Mar. 21, 2020).)

This bill:

- 1) Requires that a city council or county board of supervisors that governs a jurisdiction of at least 250,000 people must include an opportunity for members of the public to participate via a two-way telephonic option or two-way internet service-based option; if the internet option has an automatic captioning option, it must be available.

- 2) Requires a city council or board of supervisors to provide video streaming of all open and public meetings if, as of June 15, 2021, it provided video streaming of at least one open and public meeting.
 - a) Defines “video streaming” as media in which the data from a live filming or a video file is continuously delivered via the internet to a remote user, allowing a video to be viewed online by the public without being downloaded on a host computer or device.
- 3) Provides that the public must be provided with an option to comment as follows:
 - a) Unless there are any laws that prohibit in-person government meetings in the case of a declared state of emergency, including a public health emergency, all open and public meetings shall include an in-person public comment opportunity, wherein members of the public can report to a designated site to give public comment in person; the location of the designated site and any relevant instructions on in-person commenting shall be included with the public posting of the agenda.
 - b) All open and public meetings shall provide an opportunity to publicly comment on proposed legislation via a two-way telephonic or internet-based service option, and ensure the opportunity for the members of the public participating via a two-way telephonic or internet-based option to comment on agenda items with the same time allotment as a person attending a meeting in person.
- 4) Provides that the above provisions will remain in effect only until December 31, 2023, and as of that date be repealed

COMMENTS

1. Author’s statement

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.

AB 339 would protect the public’s access to government, both during and following the COVID-19 pandemic.

2. The Brown Act guarantees public access to the open and public meetings of local legislative bodies

The California Constitution enshrines the rights of the people to instruct their representatives and to access information concerning the conduct of government, and requires the meetings of public bodies to be accessible for public scrutiny.¹ To that end, the Brown Act provides guidelines for how local agencies must hold public meetings.² The legislative intent of the Brown Act was expressly declared in its original statute, and has remained unchanged despite numerous amendments:

The Legislature finds and declares that the public commissions, boards and councils and other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.³

The Brown Act generally requires that meetings of the legislative body of a local agency be open and accessible to the public, and, to ensure that the people have adequate notice and opportunity to attend, requires local agencies to provide notice of the meeting, its agenda, and its location in advance of a meeting.⁴

The Brown Act first allowed teleconference meetings in 1988.⁵ Since that time, a number of bills have made modifications to this original authorization. The Brown Act currently allows the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.⁶ The teleconferenced meeting or proceeding must comply with all requirements of the Brown Act and all other applicable provisions of law relating to a specific type of meeting or proceeding; all votes taken during a teleconferenced meeting must be taken by rollcall.⁷ If a local agency elects to use teleconferencing, it must post agendas at all teleconference locations and conduct teleconference meetings in a manner

¹ Cal. Const., art. I, § 3(a) & (b)(1).

² Gov. Code, tit. 5, div. 2, pt. 1, ch. 9, §§ 54950 et seq.

³ *Id.*, § 54950.

⁴ Gov. Code, § 54953.

⁵ AB 3191 (Frazee, Ch. 399, Stats. 1988).

⁶ Gov. Code, § 54953(b).

⁷ *Ibid.*

that protects the statutory and constitutional rights of the public.⁸ 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.⁹

In March 2020, due to the COVID-19 pandemic, the Governor issued executive orders suspending portions of the Brown Act requiring in-person meetings and allowing members of a local legislative body to attend meetings remotely.¹⁰ Throughout the pandemic, many local agencies relied on teleconference or internet streaming services to conduct meetings on a regular basis. The Governor recently extended the emergency exemptions to the Brown Act's teleconference requirements until September 30, 2021, in order to give local governments time to readjust to the pre-pandemic requirements.¹¹

This bill is intended to adopt some of the remote access mechanisms used during the pandemic to expand the public's access to local legislative body meetings even after the Executive Orders have expired.

3. This bill requires cities and counties with 250,000 or more residents to provide specified remote access to open and public meetings of local legislative bodies

This bill requires, in cities or counties with a population of over 250,000, the city council or county board of supervisors to provide a teleconference or streaming option for the public to attend open and public meetings of those legislative bodies. Specifically, they must comply with the following requirements:

- All open and public meetings must include an opportunity for the public to attend via a two-way telephonic or a two-way internet-based service option. If the legislative body elects to provide a two-way internet-based service option, the local agency must post and provide a call-in option; and if the service includes an automatic captioning function, it must be activated.
- If the legislative body has, as of June 15, 2021, provided video streaming of at least one open and public meeting, the legislative body must continue to provide that video streaming (i.e., cannot revert to a teleconference-only option).
- Unless there are laws prohibiting in-person meetings in a declared state of emergency, meetings must include an in-person public comment opportunity which allows the public to report to a designated site and provide in-person comments. The location of the site and any relevant instructions must be included with the agenda.
- The local agency must ensure that the public participating via a two-way telephonic or internet-based option has the opportunity to comment on agenda items with the same time allotment as a person attending in-person.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Governor's Exec. Order No. N-25-20 (Mar. 12, 2020); Governor's Exec. Order No. N-29-20 (Mar. 17, 2020).

¹¹ Governor's Exec. Order No. N-08-21 (Jun. 11, 2021).

The bill provides relevant definitions and findings and declaration relating to the intent to expand access to public meetings. The bill's provisions sunset on December 31, 2023.

Because the bill expands public access to the meetings, it is consistent with the constitutional requirement that the meetings be open to public scrutiny.¹² The bill will not expand access for all Californians, however, because its provisions are limited to the meetings of city councils and county boards in cities and counties with populations over 250,000. This population floor was added by the Assembly Local Government Committee, which was concerned about the potential financial burden a broader mandate would impose on smaller local governments. Because the bill includes a two-year sunset, the Legislature will have the opportunity to reassess the population floor and the bill's overall effectiveness. Legislative bodies would retain their existing authority to control public meetings, for example, by being able to adopt reasonable regulations relating to the total amount of time allocated for public testimony and time limits for each speaker;¹³ the bill clarifies, however, that a legislative body cannot use the provision of a teleconferenced opportunity to comment in lieu of an in-person comment period (i.e., there must be an opportunity for both in-person and remote public comment).

Supporters of the bill are in favor of the expanded access, particularly for members of the public who might not be able to attend an in-person meeting. Disability Rights California, for example, notes that some people with disabilities are unable to attend in-person meetings and have been able to better participate in public affairs with the COVID-19 public access provisions. Similarly, the Ella Baker Center for Human Rights notes that geographical and physical barriers to public participation – especially for rural and working-class communities that might not have a great degree of freedom to travel – will benefit from a permanent remote option.

The bill's opponents, comprised largely of local legislative bodies and agencies, express concerns about the cost of compliance, even taking into account the 250,000 population floor. For example, the Solano County Board of Supervisors expresses concern that the high cost of compliance, without any new state reimbursement, does not justify the provision of remote options that the public might not even use. Opponents, including the County of Kern, also express concerns that the bill fails to provide adequate flexibility to local governments with respect to possible technological issues with the remote access options or hostile and disruptive remote participants.

¹² See Cal. Const., art. I, § 3(b)(1).

¹³ Gov. Code, § 54954.3.

4. Arguments in support

According to bill sponsor ACLU California Action and a coalition of other supporters:

AB 339 would enhance public participation and expand access by ensuring that constituents in jurisdictions of at least 250,000 people have opportunities to join and comment at open and public city council and county board of supervisor meetings, in-person and remotely, between January 1, 2022, [and] December 31, 2023. Despite claims that local governments might incur substantial costs to comply with the bill, and contentions that they are too fiscally strapped to do so, most if not all agencies covered by the measure have already voluntarily met the standards set out in the bill, even before they received the large influx of federal stimulus funds authorized this year. Thus, there will be no or virtually no local costs. There would not be significant local costs even if the bill included all local governments. Likewise, the bill imposes no state costs because it is not a reimbursable mandate.

During the COVID-19 pandemic, remote meetings have provided a unique opportunity for Californians across the state to better participate in local government meetings. This past year has shown us how technology can help expand access and engagement with local government, and AB 339 builds on the gains of the past year to provide this access to more Californians now and once meetings return to in-person.

5. Arguments in opposition

According to a coalition of organizations from the public, private, and education sectors in opposition to the bill:

AB 339 still fails to provide flexibility to local governments to manage their own affairs. For example, what happens if either the teleconferencing service or the internet-based option aren't available or if service disruptions occur during a meeting (whether through the service itself, or the internet service or telephone service provider)? It is our understanding that if this bill passed, the affected agencies would not be able to conduct Brown Act-compliant meetings without having all services advertised in meeting announcements being operational – for the entire meeting. This means that conditions necessary to operate our members' public meetings but wholly outside of their control determine whether public meetings can legally take place or not. We strongly believe that conditioning the operations on the operability of Zoom services, for example, dangerously destabilizes our ability to meet immediate fiscal, legal, and practical obligations to constituents. Additionally, we worry about the increasing rate of cybersecurity attacks against local agencies and are concerned that these

requirements would provide another window of opportunity for bad actors to disrupt local government.

Second, as has been often chronicled in the news media, one significant challenge that has arisen in the Zoom era is of disruption of public meetings. These disruptions have taken the form of derogatory, racist, sexist, hateful, and offensive language in addition to coordinated hijackings of public meetings that involve the display of profane or pornographic images or videos. In other cases, meetings have been taken over by coordinated campaigns involving individuals from across the country calling in to provide public comment on municipal agenda items. While we do not cast aspersions on those who wish to participate, these directed campaigns are often designed only to punish local public agencies and paralyze their work by dragging out the public comment period beyond any rational length. We believe it is instructive to look at the experience the Legislature had with expanded access, and what its response was; in both houses, committees have reduced public comment time for the sake of operational efficiency. The appearance of transparency and access that this bill would create is no replacement for genuine good faith efforts to modernize the Brown Act for the benefit of all.

SUPPORT

ACLU California Action (sponsor)
Abundant Housing LA
ACT for Women and Girls
Alan Lee, Member, Big Bear Lake City Council
Alliance for Children's Rights
Bonnie Lieberman, Governing Board Member, Santa Clara Unified School District
Bryan Osorio, Mayor, Delano
California Common Cause
California Environmental Justice Alliance
California Faculty Association
California League of Conservation Voters
California News Publishers Association
California Teachers Association
California Work & Family Coalition
Californians Aware
Californians for Pesticide Reform
Central California Asthma Collaborative
Central Valley Air Quality Coalition
CEJA Action
Change Begins with ME
Christy Holstege, Mayor, Palm Springs
Cindy Chavez, Member, Santa Clara Board of Supervisors

City of Rancho Palos Verdes
Climate Action Campaign
Congregations Organized for Prophetic Engagement
Courage California
Cultiva La Salud
Disability Rights California
Dolores Huerta Foundation
East Bay YIMBY
Ella Baker Center for Human Rights
Faith in the Valley
First Amendment Coalition
Fresno Building Healthy Communities
Fresno Metro Black Chamber of Commerce
Gayle McLaughlin, Member, Richman City Council
GenUP
Hammond Climate Solutions
Hmong Innovating Politics
Housing is a Human Right Orange County
Howard Jarvis Taxpayers Association
Indivisible CA State Strong
Indivisible San Francisco
Indivisible San Jose
James Coleman, Member, South San Francisco City Council
Janice Li, Member, BART Board of Directors
Jessie Lopez, Member, Santa Ana City Council
Jon Wizard, Member, Seaside City Council
Jovanka Beckles, Member, AC Transit Board
Justin Cummings, Member, Santa Cruz City Council
Karina R. Dominguez, Member, Milpitas City Council
Katie Valenzuela, Member, Sacramento City Council
Konstantine Anthony, Member, Burbank City Council
League of Women Voters of California
Megan Beaman-Jacinto, Member, Coachella City Council
Miguel Arias, Member, Fresno City Council
Monica Montgomery Steppe, Member, San Diego City Council
National Association of Social Workers, California Chapter
NextGen Policy
Nithya Raman, Member, LA City Council
Northern Neighbors
Orange County Equality Coalition
Pacific Media Workers Guild
Peninsula for Everyone
People for Housing Orange County
People's Budget OC

Public Advocates
Pueblo Unido CDC
Rich Tran, Mayor, Milpitas
Rita Loof, San Bernardino County Board of Education, Area B
San Francisco YIMBY
Santa Cruz YIMBY
Sean Elo-Rivera, Member, San Diego City Council
Senior & Disability Action
South Bay YIMBY
Southside Forward
Streets for People
Suzie Price, Member, Long Beach City Council
Terry Taplin, Member, Berkeley City Council
Together We Will/Indivisible – Los Gatos
UC Merced Community and Labor Center
Urban Environmentalists
Vickie Fairchild, Governing Board Member, Santa Clara Unified School District
YIMBY Action
Youth Justice Education Clinic, Loyola Law School
Zach Hilton, Member, Gilroy City Counsel

OPPOSITION

Association of California Healthcare Districts
Association of California School Administrators
California Association of Clerks and Election Officials
California Association of Public Authorities for IHSS
California Downtown Association
California In-Home Supportive Services Consumer Alliance
California School Boards Association
California Special Districts Association
California State Association of Counties
City of Big Bear
City of Torrance
City of Yorba Linda
Community College League of California
County of Kern
County of San Diego
County of Santa Barbara
County of Solano
League of California Cities
Orange County Water District
Public Risk Innovation, Solutions And Management
Rural County Representatives of California

Santa Barbara County Executive Office
San Diego Schools
South Bay Cities Council of Governments
Urban Counties of California

RELATED LEGISLATION

Pending Legislation:

SB 274 (Wieckowski, 2021) requires a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email. If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by email or by other electronic means, the legislative body or its designee must send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified. SB 274 is pending before the Assembly Appropriations Committee.

AB 1419 (Kiley, 2021) requires, in addition to the requirements of the Brown Act, the governing board of a school district, a county board of education, and the governing body of a charter school to make any public meeting accessible electronically online to all members of the public seeking to attend and ensure the opportunity for the members of the public participating electronically to comment on agenda items in the same manner as a person attending a meeting in person. AB 1419 is pending before the Assembly Education Committee.

AB 703 (Blanca Rubio, 2021) removes the Brown Act's notice requirements particular to teleconferencing and revises the requirements of the Brown Act to allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda, provided that the public is allowed to observe the meeting and address the legislative body directly both in person and remotely via a call-in option or internet-based service option, and that a quorum of members participate in person from a singular physical location clearly identified on the agenda that is open to the public and situated within the jurisdiction. AB 703 is pending before the Assembly Committee on Local Government.

AB 361 (Robert Rivas, 2021) creates, until January 1, 2024, an exemption to teleconferenced public meeting requirements for local legislative bodies during states of emergency, as specified. AB 361 is pending before this Committee and will be heard on the same day as this bill.

Prior Legislation:

SB 931 (Wieckowski, 2020) would have required a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email; or, if the local agency determined it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by email or by other electronic means, the legislative body or its designee would be required to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified. SB 931 was held in the Senate Governance and Finance Committee.

AB 428 (Ridley-Thomas, Ch. 137, Stats. 2017) removed the sunset on the provision of the Brown Act authorizing a health authority conducting a teleconference meeting to count members who are outside the jurisdiction of the authority toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction.

AB 2257 (Maienschein, Ch. 265, Stats. 2016) amended the Brown Act to require an online posting of an agenda for a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has a website to be posted on the local agency's primary homepage accessible through a prominent, direct link, as specified, and subject to exceptions.

AB 1787 (Gomez, Ch. 507, Stats. 2016) amended the Brown Act so that, if the legislative body limits time for public comment, the legislative body must provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body of a local agency.

AB 194 (Campos, 2015) would have modified the Brown Act to the agenda for a regular and special meeting to provide an opportunity for the public to directly address the legislative body on any item of interest to the public before and during the legislative body's consideration of the item, except as specified, and expanded the existing prohibition against a legislative body limiting public criticism to include criticism of the officers and employees of the legislative body, and specify other designated prohibited activities related to limiting public comment. AB 194 was vetoed by Governor Edmund Brown, Jr., whose veto message stated that the bill added certain procedures to the Brown Act, which at best would elongate but in no way enhance the quality of debate at the local level.

AB 185 (Roger Hernández, 2015) would have allowed video of public meetings recorded under the Brown Act to be destroyed after two years, and required a local agency to televise open and public meetings as specified. AB 185 died in the Assembly Committee on Local Government.

PRIOR VOTES:

Senate Governance and Finance Committee (Ayes 5, Noes 0)
Assembly Floor (Ayes 54, Noes 9)
Assembly Appropriations Committee (Ayes 11, Noes 2)
Assembly Local Government Committee (Ayes 7, Noes 0)
